AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 85 Friday,

No. 2 January 3, 2020

Pages 207–418

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 85 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Printed on recycled paper.

Contents

Federal Register

Vol. 85, No. 2

Friday, January 3, 2020

Agriculture Department
See Forest Service

Centers for Medicare & Medicaid Services
RULES
Medicare Program:
Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs, etc., 224–230

Coast Guard
RULES
Regulated Navigation Areas and Safety Zones:
Tappan Zee Bridge Construction Project, Hudson River; South Nyack and Tarrytown, NY, 218–222
Regulated Navigation Areas:
Thea Foss, Middle Waterway, and Wheeler-Osgood Waterways EPA Superfund Cleanup Site, Commencement Bay, Tacoma, WA, 212–214
Safety Zone:
Lower Mississippi River, Mile Markers 229.5 to 230.5 Baton Rouge, LA, 214–216
Lower Mississippi River, Vidalia, LA, 222–224
Sacramento New Years Eve Fireworks Display, Sacramento River, Sacramento, CA, 210–212
Safety Zones:
New Orleans, LA, 216
Security Zones:
Lower Mississippi River, New Orleans LA, 216–218
PROPOSED RULES
Security Zones:
Cooper River; Charleston, SC, 271–274

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
RULES
Civil Monetary Penalty Adjustments for Inflation, 207–210

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List; Additions and Deletions, 302–303

Education Department
NOTICES
Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs:
2020–21 Award Year Deadline Dates, 303–305

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Nebraska; Lincoln-Lancaster County Health Department, 274–275
NOTICES
Cancellation Order for Certain Pesticide Registrations and Amendments to Terminate Uses, 307–312
Draft Toxic Substances Control Act Risk Evaluation:
N-Methylpyrrolidone, 310
Environmental Impact Statements; Availability, etc.:
Weekly Receipt, 306–307

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 312

Federal Communications Commission
RULES
Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs:
Huawei Designation; ZTE Designation, 230–250
PROPOSED RULES
Protecting Against National Security Threats to the Communications Supply Chain through FCC Programs, 277–285
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 314–316
Procedures for Processing FCC Form 314 and 315 Assignment and Transfer of Control Applications for Commercial Stations in Light of Third Circuit Mandate, 312–313
Procedures for Processing License Renewal Applications for Commercial Radio Stations in Light of Third Circuit Mandate, 313–314

Federal Energy Regulatory Commission
PROPOSED RULES
Revised Public Utility Filing Requirements for Electric Quarterly Reports, 265
NOTICES
Combined Filings, 305–306
Petition for Declaratory Order:
North Carolina Eastern Municipal Power Agency, 306

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 316

Fiscal Service
PROPOSED RULES
Federal Government Participation in the Automated Clearing House, 265–271
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application by Survivors for Payment of Bond or Check Issued under the Armed Forces Leave Act of 1946, As Amended, 416–417
Minority Bank Deposit Program Certification Form for Admission, 417
Request to Reissue U.S. Savings Bonds to a Personal Trust, 417

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Imports and Electronic Import Entries, 318–320
Special Protocol Assessment, 320–322
Office of Minority Health and Health Equity Strategic Priorities; Establishment of a Public Docket, 316–318

Foreign-Trade Zones Board
NOTICES
Subzone Application:
Walgreen Co., Mt. Vernon, IL; Foreign-Trade Zone 31, Granite City, IL, 298

Forest Service
NOTICES
Meetings:
Hood-Willamette Resource Advisory Committee, 297
Lynn Canal Icy Strait Resource Advisory Committee, 297–298

Geological Survey
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 333–334

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
PROPOSED RULES
Transparency in Coverage, 276

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Countermeasures Injury Compensation Program, 322–323
Data System for Organ Procurement and Transplantation Network, 324–325
The National Health Service Corps and Nurse Corps Interest Capture Form, 325–326

Homeland Security Department
See Coast Guard

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Distressed Cities Technical Assistance NOFA, 330–331
Continuum of Care Homeless Assistance—Technical Submission, 332–333
Opportunity Zone Grant Certification Form, 331–332
Survey of Market Absorption of New Multifamily Units, 329–330

Interior Department
See Geological Survey
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Aluminum Extrusions from the People's Republic of China, 298–299
Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, 299–301

Land Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Domestic Sheep Grazing Permit Renewals, Gunnison Field Office, CO, 334

National Highway Traffic Safety Administration
NOTICES
Petition for Decision of Inconsequential Noncompliance:
Great Dane Trailers, LLC, 413–414
Porsche Cars North America, Inc., 412–413
Toyota Motor North America, Inc., 415–416

National Institutes of Health
NOTICES
Government-Owned Inventions; Availability for Licensing, 327–328
Meetings:
Center for Scientific Review, 328
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 328
Prospective Grant of an Exclusive Patent License:
Development and Commercialization of CD19/CD22 Chimeric Antigen Receptor Therapies for the Treatment of B-Cell Malignancies, 328–329
Use of the CD47 Phosphorodiamidate Morpholino Oligomers for the Treatment, Prevention, and Diagnosis of Solid Tumors, 326–327

National Oceanic and Atmospheric Administration
RULES
Fisheries off West Coast States:
Magnuson-Stevens Act Provisions; Pacific Coast Groundfish Fishery; 2019–2020 Biennial Specifications and Management Measures; Inseason Adjustments, 250–264
PROPOSED RULES
Fisheries of the Northeastern United States:
Omnibus Deep-Sea Coral Amendment, 285–296
NOTICES
Meetings:
New England Fishery Management Council, 301–302

National Park Service
NOTICES
Intent to Repatriate Cultural Items:
Abbe Museum, Bar Harbor, ME, 335–337
Federal Bureau of Investigation, Art Theft Program, Washington, DC, 337–338
San Diego Museum of Man, San Diego, CA, 339–340
State University of New York at Oswego, Oswego, NY, 334–335
Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA, 340–341
Inventory Completion:
Office of the State Archaeologist Bioarchaeology Program, University of Iowa, Iowa City, IA, 338–339
School of Social Science and Global Studies, University of Southern Mississippi, Hattiesburg, MS, 341–343

Postal Regulatory Commission
NOTICES
New Postal Products, 343–344

Postal Service
NOTICES
Product Change:
Parcel Select and Parcel Return Service Negotiated Service Agreement, 344
Parcel Select Negotiated Service Agreement, 344
Priority Mail Express and Priority Mail Negotiated Service Agreement, 344
Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement, 344–345
Priority Mail Negotiated Service Agreement, 344

Securities and Exchange Commission
NOTICES
Applications:
Deregistration under the Investment Company Act of 1940, 404–408
Meetings; Sunshine Act, 369–370, 378
Self-Regulatory Organizations; Proposed Rule Changes:
BOX Exchange, LLC, 345–357
Cboe BYX Exchange, Inc., 367–369
Cboe BZX Exchange, Inc., 370–378
Long-Term Stock Exchange, Inc., 378–380
NYSE Arca, Inc., 357–367, 380–391, 394–403
The Nasdaq Stock Market, LLC, 391–394

Small Business Administration
NOTICES
Disaster Declaration:
Mississippi, 408
Texas, 409

State Department
NOTICES
Delegation of the Authority to Invoke the Deliberative-Process Privilege Authority, 409

Surface Transportation Board
NOTICES
Acquisition Exemption:
Patton-Lowe RR, Inc.; Consolidated Rail Corp., 409–410
Acquisition of Control:
Winthrop Sargent, John Cogliano, and Paul Fuerst; Plymouth and Brockton Street Railway Co., Brush Hill Transportation Co., and McGinn Bus Co., Inc., 410–412
Trackage Rights Exemption:
BNSF Railway Co.; Union Pacific Railroad Co., 410

Transportation Department
See National Highway Traffic Safety Administration

Treasury Department
See Fiscal Service
See United States Mint

United States Mint
NOTICES
Establish Prices for 2019 and 2020 United States Mint Numismatic Products, 418

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

15 CFR
6.....207

18 CFR
Proposed Rules:
35.....265

31 CFR
Proposed Rules:
210.....265

33 CFR
165 (7 documents) 210, 212, 214, 216, 218, 222
Proposed Rules:
165.....271

40 CFR
Proposed Rules:
52.....274

42 CFR
405.....224
410.....224
412.....224
414.....224
416.....224
419.....224
486.....224

45 CFR
Proposed Rules:
147.....276
158.....276

47 CFR
54.....230
Proposed Rules:
54.....277

50 CFR
660.....250
Proposed Rules:
648.....285

Rules and Regulations

Federal Register
Vol. 85, No. 2
Friday, January 3, 2020

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

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

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 6

[Docket No. 191216–0114]

RIN 0605–AA54

Civil Monetary Penalty Adjustments for Inflation

AGENCY: Office of the Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule is being issued to adjust for inflation each civil monetary penalty (CMP) provided by law within the jurisdiction of the United States Department of Commerce (Department of Commerce). The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, required the head of each agency to adjust for inflation its CMP levels in effect as of November 2, 2015, under a revised methodology that was effective for 2016 which provided for initial catch up adjustments for inflation in 2016, and requires adjustments for inflation to CMPs under a revised methodology for each year thereafter. The 2019 adjustments for inflation to CMPs to the Department of Commerce's CMPs were published in the **Federal Register** on February 7, 2019, and became effective March 1, 2019. The annual methodology provides for the improvement of the effectiveness of CMPs and to maintain their deterrent effect. Agencies' annual adjustments for inflation to CMPs shall take effect not later than January 15. The Department of Commerce's 2020 adjustments for inflation to CMPs apply only to CMPs with a dollar amount, and will not apply to CMPs written as functions of violations. The Department of Commerce's 2020 adjustments for inflation to CMPs apply only to those CMPs, including those whose associated violation predated such adjustment, which are assessed by the Department of Commerce after the effective date of the new CMP level.

DATES: This rule is effective January 15, 2020.

FOR FURTHER INFORMATION CONTACT: Stephen M. Kunze, Deputy Chief Financial Officer and Director for Financial Management, Office of Financial Management, at (202) 482–1207, Department of Commerce, 1401 Constitution Avenue NW, Room D200, Washington, DC 20230. The Department of Commerce's Civil Monetary Penalty Adjustments for Inflation are available for downloading from the Department of Commerce, Office of Financial Management's website at the following address: *http://www.osec.doc.gov/ofm/OFM_Publications.html.*

SUPPLEMENTARY INFORMATION:

Background

The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410; 28 U.S.C. 2461), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), provided for agencies' adjustments for inflation to CMPs to ensure that CMPs continue to maintain their deterrent value and that CMPs due to the Federal Government were properly accounted for and collected.

A CMP is defined as any penalty, fine, or other sanction that:

1. Is for a specific monetary amount as provided by Federal law, or has a maximum amount provided for by Federal law; and,
2. Is assessed or enforced by an agency pursuant to Federal law; and,
3. Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114–74) further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 to improve the effectiveness of CMPs and to maintain their deterrent effect. This amendment (1) required agencies to adjust the CMP levels in effect as of November 2, 2015, with initial catch up adjustments for inflation through a final rulemaking to take effect no later than August 1, 2016; and (2) requires agencies to make subsequent annual adjustments for inflation to CMPs that shall take effect not later than January 15. The Department of Commerce's 2019 adjustments for inflation to CMPs were published in the **Federal Register** on February 7, 2019, and the new CMP levels became effective March 1, 2019.

The Department of Commerce's 2020 adjustments for inflation to CMPs apply only to CMPs with a dollar amount, and will not apply to CMPs written as functions of violations. These 2020 adjustments for inflation to CMPs apply only to those CMPs, including those whose associated violation predated such adjustment, which are assessed by the Department of Commerce after the effective date of the new CMP level.

This regulation adjusts for inflation CMPs that are provided by law within the jurisdiction of the Department of Commerce. The actual CMP assessed for a particular violation is dependent upon a variety of factors. For example, the National Oceanic and Atmospheric Administration's (NOAA) Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions (Penalty Policy), a compilation of NOAA internal guidelines that are used when assessing CMPs for violations for most of the statutes NOAA enforces, will be interpreted in a manner consistent with this regulation to maintain the deterrent effect of the CMPs. The CMP ranges in the Penalty Policy are intended to aid enforcement attorneys in determining the appropriate CMP to assess for a particular violation. The Penalty Policy is maintained and made available to the public on NOAA's Office of the General Counsel, Enforcement Section website at: *http://www.gc.noaa.gov/enforce-office.html.*

The Department of Commerce's 2020 adjustments for inflation to CMPs set forth in this regulation were determined pursuant to the methodology prescribed by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which requires the maximum CMP, or the minimum and maximum CMP, as applicable, to be increased by the cost-of-living adjustment. The term ''cost-of-living adjustment'' is defined by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. For the 2020 adjustments for inflation to CMPs, the cost-of-living

adjustment is the percentage for each CMP by which the Consumer Price Index for the month of October 2019 exceeds the Consumer Price Index for the month of October 2018.

Classification

Pursuant to 5 U.S.C. 553(b)B, there is good cause to issue this rule without prior public notice or opportunity for public comment because it would be impracticable and unnecessary. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701(b)) requires agencies to make annual adjustments for inflation to CMPs notwithstanding section 553 of title 5, United States Code. Additionally, the methodology used for adjusting CMPs for inflation is given by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. The Department of Commerce is charged only with performing ministerial computations to determine the dollar amounts of adjustments for inflation to CMPs. Accordingly, prior public notice and an opportunity for public comment are not required for this rule.

Paperwork Reduction Act

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

Regulatory Analysis

E.O. 12866, Regulatory Review

This rule is not a significant regulatory action as that term is defined in Executive Order 12866.

Regulatory Flexibility Act

Because notice of proposed rulemaking and opportunity for comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

List of Subjects in 15 CFR Part 6

Civil monetary penalties, Law enforcement.

Dated: December 19, 2019.

Stephen M. Kunze,

Deputy Chief Financial Officer and Director for Financial Management, Department of Commerce.

Authority and Issuance

For the reasons stated in the preamble, the Department of Commerce revises 15 CFR part 6 to read as follows:

PART 6—CIVIL MONETARY PENALTY ADJUSTMENTS FOR INFLATION

Sec.
6.1 Definitions.
6.2 Purpose and scope.
6.3 Adjustments for inflation to civil monetary penalties.
6.4 Effective date of adjustments for inflation to civil monetary penalties.
6.5 Subsequent annual adjustments for inflation to civil monetary penalties.

Authority: Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–134, 110 Stat. 1321 (31 U.S.C. 3701 note); Sec. 701 of Pub. L. 114–74, 129 Stat. 599 (28 U.S.C. 1 note; 28 U.S.C. 2461 note).

§ 6.1 Definitions.

(a) The *Department of Commerce* means the United States Department of Commerce.

(b) *Civil Monetary Penalty* means any penalty, fine, or other sanction that:

(1) Is for a specific monetary amount as provided by Federal law, or has a maximum amount provided for by Federal law; and

(2) Is assessed or enforced by an agency pursuant to Federal law; and

(3) Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

§ 6.2 Purpose and scope.

The purpose of this part is to make adjustments for inflation to civil monetary penalties, as required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410; 28 U.S.C. 2461), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114–74), of each civil monetary penalty provided by law within the jurisdiction of the United States Department of Commerce (Department of Commerce).

§ 6.3 Adjustments for inflation to civil monetary penalties.

The civil monetary penalties provided by law within the jurisdiction of the Department of Commerce, as set forth in paragraphs (a) through (f) of this section, are hereby adjusted for inflation in 2019 in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, from the amounts of such civil monetary penalties that were in effect as of March 1, 2019, to the amounts of such civil monetary penalties, as thus adjusted. The year stated in parenthesis represents the year that the civil monetary penalty was last set by law or adjusted by law (excluding adjustments for inflation).

(a) *United States Department of Commerce.* (1) 31 U.S.C. 3802(a)(1), Program Fraud Civil Remedies Act of 1986 (1986), violation, maximum from $11,463 to $11,665.

(2) 31 U.S.C. 3802(a)(2), Program Fraud Civil Remedies Act of 1986 (1986), violation, maximum from $11,463 to $11,665.

(3) 31 U.S.C. 3729(a)(1)(G), False Claims Act (1986); violation, minimum from $11,463 to $11,665; maximum from $22,927 to $23,331.

(b) *Bureau of Economic Analysis.* (1) 22 U.S.C. 3105(a), International Investment and Trade in Services Act (1990); failure to furnish information, minimum from $4,735 to $4,819; maximum from $47,357 to $48,192.

(c) *Bureau of Industry and Security.* (1) 15 U.S.C. 5408(b)(1), Fastener Quality Act (1990), violation, maximum from $47,357 to $48,192.

(2) 22 U.S.C. 6761(a)(1)(A), Chemical Weapons Convention Implementation Act (1998), violation, maximum from $38,549 to $39,229.

(3) 22 U.S.C. 6761(a)(l)(B), Chemical Weapons Convention Implementation Act (1998), violation, maximum from $7,710 to $7,846.

(4) 50 U.S.C. 1705(b), International Emergency Economic Powers Act (2007), violation, maximum from $302,584 to $307,922.

(5) 22 U.S.C. 8142(a), United States Additional Protocol Implementation Act (2006), violation, maximum from $31,328 to $31,881.

(6) 50 U.S.C. 4819, Export Control Reform Act of 2018 (2018), violation, maximum from $300,000 to $305,292.

(d) *Census Bureau.* (1) 13 U.S.C. 304, Collection of Foreign Trade Statistics (2002), each day's delinquency of a violation; total of not to exceed maximum per violation, from $1,394 to $1,419; maximum per violation, from $13,948 to $14,194.

(2) 13 U.S.C. 305(b), Collection of Foreign Trade Statistics (2002), violation, maximum from $13,948 to $14,194.

(e) *International Trade Administration.* (1) 19 U.S.C. 81s, Foreign Trade Zone (1934), violation, maximum from $2,924 to $2,976.

(2) 19 U.S.C. 1677f(f)(4), U.S.-Canada Free Trade Agreement Protective Order

(1988), violation, maximum from $210,386 to $214,097.

(f) *National Oceanic and Atmospheric Administration.* (1) 51 U.S.C. 60123(a), Land Remote Sensing Policy Act of 2010 (2010), violation, maximum from $11,562 to $11,766.

(2) 51 U.S.C. 60148(c), Land Remote Sensing Policy Act of 2010 (2010), violation, maximum from $11,562 to $11,766.

(3) 16 U.S.C. 773f(a), Northern Pacific Halibut Act of 1982 (2007), violation, maximum from $242,069 to $246,339.

(4) 16 U.S.C. 783, Sponge Act (1914), violation, maximum from $1,729 to $1,759.

(5) 16 U.S.C. 957(d), (e), and (f), Tuna Conventions Act of 1950 (1962):

(i) Violation of 16 U.S.C. 957(a), maximum from $86,389 to $87,913.

(ii) Subsequent violation of 16 U.S.C. 957(a), maximum from $186,070 to $189,352.

(iii) Violation of 16 U.S.C. 957(b), maximum from $2,924 to $2,976.

(iv) Subsequent violation of 16 U.S.C. 957(b), maximum from $17,278 to $17,583.

(v) Violation of 16 U.S.C. 957(c), maximum from $372,141 to $378,706.

(6) 16 U.S.C. 957(i), Tuna Conventions Act of 1950,[1] violation, maximum from $189,427 to $192,768.

(7) 16 U.S.C. 959, Tuna Conventions Act of 1950,[2] violation, maximum from $189,427 to $192,768.

(8) 16 U.S.C. 971f(a), Atlantic Tunas Convention Act of 1975,[3] violation, maximum from $189,427 to $192,768.

(9) 16 U.S.C. 973f(a), South Pacific Tuna Act of 1988 (1988), violation, maximum from $525,965 to $535,243.

(10) 16 U.S.C. 1174(b), Fur Seal Act Amendments of 1983 (1983), violation, maximum from $25,037 to $25,479.

(11) 16 U.S.C. 1375(a)(1), Marine Mammal Protection Act of 1972 (1972), violation, maximum from $29,239 to $29,755.

(12) 16 U.S.C. 1385(e), Dolphin Protection Consumer Information Act,[4] violation, maximum from $189,427 to $192,768.

(13) 16 U.S.C. 1437(d)(1), National Marine Sanctuaries Act (1992), violation, maximum from $178,338 to $181,484.

(14) 16 U.S.C. 1540(a)(1), Endangered Species Act of 1973:

(i) Violation as specified (1988), maximum from $52,596 to $53,524.

(ii) Violation as specified (1988), maximum from $25,246 to $25,691.

(iii) Otherwise violation (1978), maximum from $1,729 to $1,759.

(15) 16 U.S.C. 1858(a), Magnuson-Stevens Fishery Conservation and Management Act (1990), violation, maximum from $189,427 to $192,768.

(16) 16 U.S.C. 2437(a), Antarctic Marine Living Resources Convention Act of 1984,[5] violation, maximum from $189,427 to $192,768.

(17) 16 U.S.C. 2465(a), Antarctic Protection Act of 1990,[6] violation, maximum from $189,427 to $192,768.

(18) 16 U.S.C. 3373(a), Lacey Act Amendments of 1981 (1981):

(i) 16 U.S.C. 3373(a)(1), violation, maximum from $27,075 to $27,553.

(ii) 16 U.S.C. 3373(a)(2), violation, maximum from $677 to $689.

(19) 16 U.S.C. 3606(b)(1), Atlantic Salmon Convention Act of 1982,[7] violation, maximum from $189,427 to $192,768.

(20) 16 U.S.C. 3637(b), Pacific Salmon Treaty Act of 1985,[8] violation, maximum from $189,427 to $192,768.

(21) 16 U.S.C. 4016(b)(1)(B), Fish and Seafood Promotion Act of 1986 (1986); violation, minimum from $1,146 to $1,166; maximum from $11,463 to $11,665.

(22) 16 U.S.C. 5010, North Pacific Anadromous Stocks Act of 1992,[9] violation, maximum from $189,427 to $192,768.

(23) 16 U.S.C. 5103(b)(2), Atlantic Coastal Fisheries Cooperative Management Act,[10] violation, maximum from $189,427 to $192,768.

(24) 16 U.S.C. 5154(c)(1), Atlantic Striped Bass Conservation Act,[11] violation, maximum from $189,427 to $192,768.

(25) 16 U.S.C. 5507(a), High Seas Fishing Compliance Act of 1995 (1995), violation, maximum from $164,531 to $167,433.

(26) 16 U.S.C. 5606(b), Northwest Atlantic Fisheries Convention Act of 1995,[12] violation, maximum from $189,427 to $192,768.

(27) 16 U.S.C. 6905(c), Western and Central Pacific Fisheries Convention Implementation Act,[13] violation, maximum from $189,427 to $192,768.

(28) 16 U.S.C. 7009(c) and (d), Pacific Whiting Act of 2006,[14] violation, maximum from $189,427 to $192,768.

(29) 22 U.S.C. 1978(e), Fishermen's Protective Act of 1967 (1971):

(i) Violation, maximum from $29,239 to $29,755.

(ii) Subsequent violation, maximum from $86,389 to $87,913.

(30) 30 U.S.C. 1462(a), Deep Seabed Hard Mineral Resources Act (1980), violation, maximum, from $74,552 to $75,867.

(31) 42 U.S.C. 9152(c), Ocean Thermal Energy Conversion Act of 1980 (1980), violation, maximum from $74,552 to $75,867.

(32) 16 U.S.C. 1827a, Billfish Conservation Act of 2012,[15] violation, maximum from $189,427 to $192,768.

(33) 16 U.S.C. 7407(b), Port State Measures Agreement Act of 2015,[16] violation, maximum from $189,427 to $192,768.

(34) 16 U.S.C. 1826g(f), High Seas Driftnet Fishing Moratorium Protection Act,[17] violation, maximum from $189,427 to $192,768.

(35) 16 U.S.C. 7705, Ensuring Access to Pacific Fisheries Act,[18] violation, maximum from $189,427 to $192,768.

(36) 16 U.S.C. 7805, Ensuring Access to Pacific Fisheries Act,[19] violation, maximum from $189,427 to $192,768.

(g) *National Technical Information Service.* (1) 42 U.S.C. 1306c(c), Bipartisan Budget Act of 2013 (2013), (newly reported penalty), violation $1,000; (newly reported penalty), maximum total penalty on any person for any calendar year, excluding willful or intentional violations $250,000.

[1] This National Oceanic and Atmospheric Administration maximum civil monetary penalty, as prescribed by law, is the maximum civil penalty per 16 U.S.C. 1858(a), Magnuson-Stevens Fishery Conservation and Management Act civil monetary penalty (item (15)).

[2] See footnote 1.

[3] See footnote 1.

[4] See footnote 1.

[5] See footnote 1.

[6] See footnote 1.

[7] See footnote 1.

[8] See footnote 1.

[9] See footnote 1.

[10] See footnote 1.

[11] See footnote 1.

[12] See footnote 1.

[13] See footnote 1.

[14] See footnote 1.

[15] See footnote 1.

[16] See footnote 1.

[17] See footnote 1.

[18] See footnote 1.

[19] See footnote 1.

§ 6.4 Effective date of adjustments for inflation to civil monetary penalties.

The Department of Commerce's 2020 adjustments for inflation made by § 6.3, of the civil monetary penalties there specified, are effective on January 15, 2020, and said civil monetary penalties, as thus adjusted by the adjustments for inflation made by § 6.3, apply only to those civil monetary penalties, including those whose associated violation predated such adjustment, which are assessed by the Department of Commerce after the effective date of the new civil monetary penalty level, and before the effective date of any future adjustments for inflation to civil monetary penalties thereto made subsequent to January 15, 2020, as provided in § 6.5.

§ 6.5 Subsequent annual adjustments for inflation to civil monetary penalties.

The Secretary of Commerce or his or her designee by regulation shall make subsequent adjustments for inflation to the Department of Commerce's civil monetary penalties annually, which shall take effect not later than January 15, notwithstanding section 553 of title 5, United States Code.

[FR Doc. 2019–27864 Filed 1–2–20; 8:45 am]

BILLING CODE 3510–DP–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0967]

RIN 1625–AA00

Safety Zones; Sacramento New Years Eve Fireworks Display, Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones in the navigable waters of the Sacramento River near River Walk Park and the Tower Bridge in Sacramento, CA in support of the Sacramento New Years Eve Fireworks Display on December 31, 2019. These safety zones are necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zones without permission of the Captain of the Port or a designated representative.

DATES: This rule is effective from 8:30 p.m. to 10 p.m. on December 31, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0967 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Emily Rowan, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port San Francisco
DHS Department of Homeland Security
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this rule because it is impracticable. The Coast Guard did not receive final details for this event until November 5, 2019. There was insufficient time to undergo the full rulemaking process, including providing a reasonable comment period and considering those comments, because the Coast Guard must establish this temporary safety zone by December 31, 2019.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is necessary to respond to the potential safety hazards associated with the firework display near Sacramento, CA.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco has determined that potential hazards associated with the Sacramento New Year's Eve fireworks display on December 31, 2019, will be a safety concern for anyone within a 175-foot radius of the fireworks firing sites. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks firing site during the fireworks display.

IV. Discussion of the Rule

This rule establishes three temporary safety zones from 8:30 p.m. to 10 p.m. on December 31, 2019. At 8:30 p.m., 30 minutes prior to the commencement of the 20-minute fireworks display, scheduled to being at 9:00 p.m. on December 31, 2019, the three safety zones for the Sacramento New Years Eve Fireworks Display will encompass the navigable waters, from surface to bottom, around the fireworks firing sites within three respective circles each with a radius of 175 feet with the respective circle centers in approximate positions:

Southern Firing Site at 38°34′50″ N, 121°30′30″ W,

Northern Firing Site at 38°35′02″ N, 121°30′40″ W, and

Near the Tower Bridge at 38°34′50″ N, 121°30′30″ W (NAD83).

The safety zones shall terminate at 10 p.m. on December 31, 2019.

This regulation is needed to keep persons and vessels away from the immediate vicinity of the firework display locations to ensure the safety of participants, spectators, and transiting vessels. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted areas. A ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zones. The COTP or the COTP's designated representative will notify the maritime community of periods during which these zones will be enforced using information broadcasts.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the limited duration and narrowly tailored geographic area of the

safety zones. These safety zones impacts three, 175-foot-radius circular areas of the Sacramento River in Sacramento, CA for 2 hours and 30 minutes. The vessels desiring to transit through or around the temporary safety zones may do so upon express permission from the COTP or the COTP's designated representative.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and U.S. Coast Guard Environmental Planning Policy, COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zones lasting two hours and thirty minutes that prevents entry to a 175-foot-radius area of the Sacramento River in Sacramento, CA. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of Department of Homeland Security Directive 023–01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–016 to read as follows:

§ 165.T11–016 Safety zones; Sacramento New Years Eve Fireworks Display, Sacramento River, Sacramento, CA.

(a) *Location.* These temporary safety zones are established in the navigable waters of the Sacramento River near River Walk Park and the Tower Bridge in Sacramento, CA as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18662. From 8:30 p.m. until 10 p.m. on December 31, 2019, the three temporary safety zones apply to all navigable waters of the Sacramento River, from surface to bottom, within three circles each with a radius of 175 feet with circle centers at each of the three fireworks firing sites, near River Walk Park and the Tower Bridge in Sacramento, CA, in approximate positions, respectively: Southern Firing Site at 38°34′50″ N, 121°30′30″ W, Northern Firing Site at 38°35′02″ N, 121°30′40″ W, and Near the Tower Bridge at 38°34′50″ N, 121°30′30″ W (NAD83).

(b) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer

on a Coast Guard vessel, or a Federal, State, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zones.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart B, you may not enter the safety zones described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) The safety zones are closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zones must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zones must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zones on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

(d) Enforcement period. This section will be enforced from 8:30 p.m. until 10 p.m. on December 31, 2019.

(e) Information broadcasts. The COTP or the COTP's designated representative will notify the maritime community of periods during which these zones will be enforced in accordance with § 165.7.

Dated: December 23, 2019.

Howard H. Wright,

Captain, U.S. Coast Guard, Alternate Captain of the Port, San Francisco.

[FR Doc. 2019–28191 Filed 12–30–19; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0970]

RIN 1625–AA11

Regulated Navigation Area; Thea Foss, Middle Waterway, and Wheeler-Osgood Waterways EPA Superfund Cleanup Site, Commencement Bay, Tacoma, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the Thea Foss and Wheeler-Osgood Regulated Navigation Area (RNA) for Commencement Bay to establish a permanent regulated navigation area within the Middle Waterway. This action is necessary to protect sediment cap areas in the U.S. Environmental Protection Agency's Commencement Bay Nearshore-Tideflats Superfund Cleanup Site within the Middle Waterway. This RNA would prohibit certain activities that could disrupt the integrity of the engineered sediment caps placed within the Middle Waterway.

DATES: This rule is effective February 3, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2018–0970 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management Branch, U.S. Coast Guard; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On April 5, 2005, the Middle Waterway Action Committee requested the establishment of a regulated navigation area to prohibit activities that could compromise the integrity of the sediment caps placed over the contaminated sites within the Middle Waterway. In 2006 and 2015, the Coast Guard issued NPRMs related to this issued but never finalized the rule. On March 6, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Regulated Navigation Area; Thea Foss and Wheeler-Osgood Waterways EPA Superfund Cleanup Site, Commencement Bay, Tacoma, WA 84 FR 8051. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulated navigation area. During the comment period that ended April 6, 2019, we received two comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Coast Guard District Thirteen Commander has determined that there are potential hazards associated with the five Environmental Protection Agency's Superfund Cleanup Sites located within the Middle Waterway. The purpose of this rule is to ensure safety of persons and environment within the navigable waters of the Middle Waterway by prohibiting activities that could compromise the integrity of the engineered sediment caps.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received two comments on our NPRM published March 6, 2019. One comment we received was in support of the rule.

The second comment discussed current marine operations prohibited by this rule, these operations include marine piling construction, anchoring system for a dry-dock, and other mooring systems. The commenter discussed these operations occur within the proposed regulated navigation area but outside of the five separate contaminated sites contained within the Middle Waterway Regulated Navigation Area. Additionally, the comment discussed concerns over the ingress and egress of tugboats within the designated area.

The Coast Guard is aware marine operations occur within the regulated navigation area that do disturb the seabed outside of the contaminated Superfund cleanup sites. In the initial request for a regulated navigation area submitted by the Middle Waterway Action Committee, April 5, 2005, we were informed of the dry-dock anchored outside one of the sediment caps within the waterway. The COTP, upon written request, may authorize a waiver from this regulation. The COTP will consult with the Environmental Protection Agency in making this determination when necessary and practicable.

The vessel traffic navigating within the regulated navigation area is not prohibited by this regulation and therefore falls outside the scope of this rulemaking.

There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule amends the Thea Foss and Wheeler Osgood Waterway by establishing a permanent regulated navigation area for the Middle Waterway. The purpose of this rule is to prevent the disturbance of the five sediment caps established within the Middle Waterway Problem Area of the Superfund Cleanup Site that are not geographically encompassed by the

Thea Foss and Wheeler-Osgood Waterways RNA. Disrupting the integrity of the caps in this area may result in a hazardous condition harming the marine environment and the public. Therefore, this proposed RNA expansion is necessary to protect the integrity of the caps and will do so by prohibiting maritime activities that could cause disturbance or damage.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the small geographic area encompassed by the RNA, and the limited amount of commercial and recreational traffic passing through the area. Additionally, prohibited activities are not routine in the designated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

In preparation for this rulemaking, we identified the area encompassed by the proposed rule overlaps with the usual and accustomed fishing grounds for the Puyallup and Muckleshoot tribes. We informed both tribes of the proposed rulemaking, but only received a response from the Muckleshoot tribe. We conducted a meeting with the Muckleshoot tribe's Fish Commission on September 12, 2018. During this meeting, the Muckleshoot Fish Commission and the Coast Guard discussed potential impacts of the proposed rulemaking on the Muckleshoot tribe. Following the meeting, the Coast Guard concluded that this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, as it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves amending a regulated navigation area that would prohibit activities that could disturb the engineered sediment caps on the seabed. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. In § 165.1329, revise the section heading, add paragraph (a)(4), and revise paragraphs (b)(1) and (2) to read as follows:

§ 165.1329 Regulated Navigation Area; Thea Foss, Middle Waterway, and Wheeler-Osgood Waterways EPA Superfund Cleanup Site, Commencement Bay, Tacoma, WA.

(a) * * *

(4) All waters of the Middle Waterway south of a line connecting a point of the shore at 47°15′51″ N, 122°25′53″ W; thence southwest to 47°15′48.6858″ N, 122°26′02.2374″ W; thence south to 47°15′46.7316″ N, 122°26′01.1214″ W [Datum: NAD 1983].

(b) * * *

(1) All vessels and persons are prohibited from activities that would disturb the seabed, such as anchoring, dragging, spudding, or other activities that involve disrupting the integrity of the sediment caps installed in the designated regulated navigation area, pursuant to the remediation efforts of the U.S. Environmental Protection Agency (EPA) and others in the Thea Foss, Middle Waterway, and Wheeler-Osgood Waterways EPA superfund cleanup site. Vessels may otherwise transit or navigate within this area without reservation.

(2) The prohibition described in paragraph (b)(1) of this section does not apply to vessels or persons engaged in activities associated with remediation efforts in the Thea Foss, Middle Waterway, or Wheeler-Osgood Waterways superfund sites, provided that the Captain of the Port, Puget Sound (COTP), is given advance notice of those activities by the EPA.

* * * * *

Dated: September 26, 2019.

A.J. Vogt,

RADM, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. 2019–27980 Filed 1–2–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0837]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, Mile Markers 229.5 to 230.5 Baton Rouge, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Lower Mississippi River from mile marker (MM) 229.5 to MM 230.5, above Head of Passes. The safety zone is needed to protect personnel, vessels, and the marine environment on these navigable waters near Baton Rouge, LA, during a New Year's Eve fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector New Orleans.

DATES: This rule is effective from 11:30 p.m. on December 31, 2019 through 12:30 a.m. on January 1, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0837 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Justin Maio, Marine Safety Unit Baton Rouge, U.S. Coast Guard; telephone 225–298–5400 ext. 230, email *Justin.P.Maio@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AHP Above Head of Passes
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On September 25, 2019, the Baton Rouge Office of Mayor President notified the Coast Guard that from 11:30 p.m. on December 31, 2019 to 12:30 a.m. on January 1, 2020, it will be conducting a fireworks display launched from the levee at approximate mile marker (MM) 230 on the lower Mississippi River, above Head of Passes (AHP) in Baton Rouge, Louisiana. In response, on November 21, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled New Year's Eve Celebration 84 FR 65049. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended December 11, 2019, we received one comment.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector New Orleans (COTP) has determined that potential hazards associated with the New Year's Eve fireworks display will be a safety concern for anyone within approximately one mile of the launch site. The launch site will be located on the top of the levee of the Lower Mississippi River at approximate MM 230, Baton Rouge, LA. Hazards from the fireworks display include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is necessary to protect persons, vessels, and the marine environment before, during, and after the scheduled fireworks display.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published November 21, 2019. The comment was in support of establishing a temporary safety zone for the proposed fireworks display. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a temporary safety zone from 11:30 p.m. on December 31, 2019 through 12:30 a.m.

on January 1, 2020. The safety zone covers all navigable waters of the Lower Mississippi River in Baton Rouge, LA, from MM 229.5 to MM 230.5, AHP. The duration of the zone is intended to ensure the safety of persons, vessels, and the marine environment before, during, and after the scheduled fireworks display. Entry into this zone is prohibited unless authorized by the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on size, location, duration, and time-of-day of the safety zone. This temporary safety zone would only restrict navigation on a one-mile portion of the Lower Mississippi River for approximately one hour on one evening. Moreover, the Coast Guard will issue BNMs via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting for approximately one hour that would prohibit entry into a one-mile stretch of the Lower Mississippi River on one evening. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0837 to read as follows:

§ 165.T08–0837 Safety Zone; Lower Mississippi River, Mile Markers 229.5 to 230.5, Baton Rouge, LA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River from mile marker (MM) 229.5 to MM 230.5 above Head of Passes, Baton Rouge, LA.

(b) *Effective period.* This section is effective from 11:30 p.m. on December 31, 2019 through 12:30 a.m. on January 1, 2020.

(c) *Regulations.* (1) Under the general safety zone regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Sector New Orleans (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative via VHF–FM Channel 16 or 67, or through the Marine Safety Unit Baton Rouge Officer of the Day at 225–281–4789.

(3) All persons and vessels permitted to enter this safety zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

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

Dated: December 20, 2019.

Kristi M. Luttrell,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2019–27961 Filed 12–31–19; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0949]

Safety Zone; New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a temporary safety zone between mile marker (MM) 94 and MM 95 above Head of Passes, Lower Mississippi River, LA. This action is necessary to provide for the safety of life on these navigable waters near New Orleans, LA, during a fireworks display on January 11, 2020. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulations in 33 CFR 165.845 will be enforced from 9 p.m. through 11 p.m. on January 11, 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Commander Corinne Plummer, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2375, email *Corinne.M.Plummer@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone located in 33 CFR 165.845 for the College Football Playoffs Fireworks Display event. The regulations will be enforced from 9 p.m. through 11 p.m. on January 11, 2020. This action is being taken to provide for the safety of life on navigable waterways during this event, which will be located between MM 94 and MM 95 above Head of Passes, Lower Mississippi River, LA. During the enforcement periods, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via a Marine Safety Information Bulletin and Broadcast Notice to Mariners.

Dated: December 20, 2019.

K.M. Luttrell,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2019–27958 Filed 1–2–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0947]

RIN 1625–AA87

Security Zone; Lower Mississippi River, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone. This security zone is necessary to provide security and protection for visiting personnel during the events related to the College Football Playoff game. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans or a designated representative.

DATES: This rule is effective from 1:30 p.m. on January 11, 2020, through 5 p.m. on January 13, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0947 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Corinne Plummer, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2375, email *Corinne.M.Plummer@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port Sector New Orleans
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are

''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impractical. We must establish this security zone by January 11, 2020 in order to provide proper security for these visiting personnel, and we do not have sufficient time to request and respond to comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to provide adequate security to protect the public.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector New Orleans (COTP) has determined that the increased number of personnel anticipated to be visiting the city during the College Football playoffs requires certain security measures to ensure that the persons and property are kept secure during the events. The Coast Guard determined that a temporary security zone is needed for this and related events that will be taking place adjacent to a portion of Lower Mississippi River.

IV. Discussion of the Rule

This rule establishes a security zone from January 11, 2020 through January 13, 2020. The security zone will be enforced from 1:30 p.m. through 11:30 p.m. on January 11, 2020, from 1:30 p.m. through 11:30 p.m. on January 12, 2020, and from 11:30 a.m. through 5 p.m. on January 13, 2020. The security zone will cover all navigable waters within 400-yards of the Left Descending Bank (LDB) of the Lower Mississippi River (LMR) between MM 94.5 and MM 96, Ahead of Passes, (AHOP), New Orleans, Louisiana. This zone is necessary in order to provide waterside security for the protection of visitors attending the events related to the College Football playoffs. No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at (504) 365–2200.

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

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

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the security zone. Vessel traffic will be able to safely transit around this security zone which would impact a small designated area of the Mississippi River near New Orleans, LA for a limited number of hours on each of three days, and will not overly impede vessel traffic during the periods in effect. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a security zone to protect the public in a small designated area of the Mississippi River near New Orleans, LA for a limited number of hours on each of three days. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0947 to read as follows:

§ 165.T08–0947 Security Zone; Mississippi River, New Orleans, LA.

(a) *Location.* The following area is a temporary security zone: All navigable waters of Mississippi River, New Orleans, LA within 400-yards of the Left Descending Bank (LDB) of the Lower Mississippi River (LMR) between MM 94.5 and MM 96, Ahead of Passes, (AHOP), New Orleans, Louisiana.

(b) *Effective period.* This section is effective from 1:30 p.m. on January 11, 2020, through 5 p.m. on January 13, 2020.

(c) *Enforcement period.* This section will be enforced from 1:30 p.m. through 11:30 p.m. on January 11, 2020, from 1:30 p.m. through 11:30 p.m. on January 12, 2020, and from 11:30 a.m. through 5 p.m. on January 13, 2020.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into or remaining within this regulated area is prohibited unless authorized by the Captain of the Port Sector New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this regulated area must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at (504) 365–2200.

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

Dated: December 20, 2019.

K.M. Luttrell,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2019–28113 Filed 1–2–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0970]

RIN 1625–AA00

Regulated Navigation Area and Safety Zone: Tappan Zee Bridge Construction Project, Hudson River; South Nyack and Tarrytown, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary regulated navigation areas and a safety zone for the navigable waters of the Hudson River, NY, surrounding the Tappan Zee Bridge from January 1, 2020 through July 1, 2020. This rule will prohibit all persons and vessel traffic from the safety zone and enforce speed and wake restrictions for the Eastern and Western regulated navigation areas unless exceptions are authorized by the First District Commander or a designated representative. These regulated navigation areas and safety zone continue to be necessary to protect personnel, vessels, and the marine environment from potential hazards during the removal of the existing Tappan Zee Bridge and construction of a new bridge.

DATES: This rule is effective without actual notice from January 3, 2020 through July 1, 2020. For the purposes of enforcement, actual notice will be used from January 1, 2020 through January 3, 2020.

Comments and related material must be received by the Coast Guard during the effective period on or before April 1, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0970 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule. You may submit comments identified by docket number USCG–2019–0970 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public

Participation and Request for Comments'' portion for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Craig Lapiejko, Waterways Management at Coast Guard First District, telephone 617–223–8351, email *craig.lapiejko@uscg.mil* or, Mr. Jeff Yunker, Coast Guard Sector New York Waterways Management Division, U.S. Coast Guard; telephone 718–354–4195, email *jeff.m.yunker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NYSTA New York State Thruway Authority
RNA Regulated Navigation Area
NPRM Notice of proposed rulemaking
TFR Temporary Final Rule
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On September 26, 2013, the Coast Guard published a temporary final rule (TFR) establishing a regulated navigation area (RNA) on the navigable waters of the Hudson River, NY, for the Tappan Zee Bridge replacement project (78 FR 59231). We received no comments on the September 26, 2013, TIR. No public meeting was requested, and none was held. Construction on the Tappan Zee Bridge replacement project began on October 1, 2013.

On July 25, 2014, the Coast Guard published a change to the original TIR which established a new safety zone and expanded the RNA to create both an Eastern and Western RNA for the Tappan Zee Bridge replacement project on navigable waters of the Hudson River, NY (79 FR 43250). We received two comments on the July 25, 2014, TIR. The first comment referenced an unrelated rulemaking effort to establish anchorage locations along the Hudson River. The second comment merely provided the environmental checklist for the TIR. No public meeting was requested, and none was held.

On December 21, 2018, the Coast Guard published (83 FR 65521) which extended the effective period of the rule for one year until December 31, 2019, due to delays of the Tappan Zee Bridge replacement project.

On December 20, 2019, the NYSTA requested the RNAs and safety zone be extended through June 2020, to complete all remaining contract operations in and over the Hudson River.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The notice allowing the construction project to proceed and providing updated timelines for the project was only recently finalized and provided to the Coast Guard, which did not give the Coast Guard enough time to publish a NPRM, take public comments, and issue a final rule before the existing regulation expires. Timely action is needed to respond to the potential safety hazards associated with construction operations of a new replacement bridge. It would be impracticable and contrary to the public interest to publish a NPRM because we must extend the effective period of the safety zone and RNAs as soon as possible to protect the safety of the waterway users, construction crew, and other personnel associated with the bridge project. Additionally, construction barges and mooring balls still remain in the area. A delay of the project to accommodate a full notice and comment period would delay necessary operations, result in increased costs, and delay the completion date of the bridge project and subsequent reopening of the Hudson River for normal operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. For reasons stated in the preceding paragraph, delaying the effective date of this rule would be impracticable and contrary to the public interest because timely action is needed to respond to the potential safety hazards associated with the project.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034.

The First District Commander has determined that potential hazards exist associated with this bridge construction project that has already commenced, and will continue through July 1, 2020, will be a safety concern for anyone within the work zone. The construction and removal of the bridge continues to be extremely complex and presents many safety hazards including overhead crane operations, overhead cutting operations, potential falling debris, and barges positioned in the Hudson River, and along the length of the bridge. In order to mitigate the inherent risks involved with the final work projects to complete the new bridge, it is necessary to control vessel movement through the area. The purpose of this TFR is to ensure the safety of waterway users, the public, and construction workers for the duration of the bridge construction project. Heavy-lift operations are sensitive to water movement, and wake from passing vessels could pose significant risk of injury or death to construction workers. In order to minimize such unexpected or uncontrolled movement of water, any vessel transiting through the Western and Eastern RNA must make a direct and expeditious passage. No vessel may stop, moor, anchor, or loiter within the RNA at any time unless they are working on the bridge construction operations. This rule is needed to protect personnel, vessels, and the marine environment on the navigable waters of the Hudson River, NY, during the bridge project.

IV. Discussion of the Rule

This rule establishes a temporary final rule for the navigable waters of the Hudson River, NY, surrounding the Tappan Zee Bridge until July 1, 2020. There are no other changes to the regulatory text of this rule as previously cited in 33 CFR § 165.T01–0174. This rule will prohibit all persons and vessel traffic from the safety zone and enforce speed and wake restrictions for the Eastern and Western RNAs unless exceptions are authorized by the First District Commander or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

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

This regulatory action determination is based on the following reasons: Vessel traffic would only be restricted from the Eastern RNA for limited durations. The Eastern RNA covers only a small portion of the navigable waterway which includes the Federal navigation channel. Furthermore, while the Federal navigation channel on the Hudson River is closed, vessels that can safely navigate outside the channel may still be able to transit through the Western RNA or the portion of the Eastern RNA which does not encompass the Federal Navigation channel, depending on the project schedule and location of project vessels in these areas. The Coast Guard does not expect to receive any additional requests to close the entire Federal navigation channel in 2020, based upon the current construction progress, except in case of an emergency.

Advance public notifications will also be made to local mariners through appropriate means, which may include but are not limited to, Local Notice to Mariners, Broadcast Notice to Mariners, and the Boater Safety Information section of the project website at *http://www.newnybridge.com.*

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This temporary final rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves extending the effective time for six months restricting vessel movement within regulated navigation areas and safety zone on the navigable waters of Hudson River in vicinity of the Tappan Zee Bridge construction project. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this temporary final rule.

G. Protest Activities

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

VI. Public Participation and Request for Comments

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

We encourage you to submit comments through the Federal

eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0970 to read as follows:

§ 165.T01–0970 Regulated Navigation Areas and Safety Zone Tappan Zee Bridge Construction Project, Hudson River; South Nyack and Tarrytown, NY.

(a) *Regulated Navigation Area Boundaries. The following are regulated navigation areas:*

(1) *Western RNA:* All waters bound by the following approximate positions: 41°04′39.16″ N, 073°55′00.68″ W on the western shoreline; thence to 41°04′28.34″ N, 073°54′47.18″ W; thence to 41°04′11.28″ N, 073°54′48.00″ W; thence to 41°03′57.26″ N, 073°54′40.73″ W; thence to 41°03′57.36″ N, 073°54′47.38″ W; thence to 41°03′58.66″ N, 073°54′56.14″ W; thence to 41°04′03.00″ N, 073°55′07.60″ W; thence to a point on the western shoreline at 41°04′06.69″ N, 073°55′14.10″ W; thence northerly along the shoreline to the point of origin (NAD 83).

(2) *Eastern RNA:* All waters bound by the following approximate positions: 41°04′21.96″ N, 073°52′03.25″ W on the eastern shoreline; thence to 41°04′26.27″ N, 073°52′19.82″ W; thence to 41°04′26.53″ N, 073°53′20.07″ W; thence to 41°03′56.92″ N, 073°53′18.84″ W; thence to 41°03′56.69″ N, 073°52′24.75″ W; thence to a point on the eastern shoreline at 41°03′46.91″ N, 073°52′05.89″ W; thence northerly along the shoreline to the point of origin (NAD 83).

(b) *Safety Zone Boundaries.* The following is a Safety Zone: All waters bound by the following approximate positions: 41°04′59.70″ N, 073°54′45.54″ W; thence to 41°05′00.18″ N, 073°53′21.48″ W; thence to 41°03′09.24″ N, 073°53′16.86″ W; thence to 41°03′07.08″ N, 073°54′14.70″ W; thence to 41°04′11.28″ N, 073°54′48.00″ W; thence to the point of origin (NAD 83).

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13, 165.20 and 165.23 apply.

(2) Any vessel transiting through the Western RNA must make a direct and expeditious passage. No vessel may stop, moor, anchor or loiter within the RNA at any time unless they are working on the bridge construction operations.

(3) Any vessel transiting through the Eastern RNA must make a direct and expeditious passage. No vessel may stop, moor, anchor or loiter within the RNA at any time unless they are working on the bridge construction operations or they are transiting to, or from, the special anchorage area codified in 33 CFR 110.60(c)(8) located on the eastern shoreline at Tarrytown, NY and within the boundaries of the RNA.

(4) Entry and movement within the Eastern RNA or Western RNA is subject to a ''Slow-No Wake'' speed limit. All vessels may not produce a wake and may not attain speeds greater than five knots unless a higher minimum speed is necessary to maintain steerageway. All vessels must proceed through the Eastern RNA and Western RNA with caution and operate in such a manner as to produce no wake.

(5) Entry into, anchoring, loitering, or movement within the Safety Zone is prohibited unless the vessel is working on the bridge construction operations or authorized by the Captain of the Port New York (COTP) or his designated representative.

(6) All persons and vessels must comply with all orders and directions from the COTP or the COTP's designated representative. The ''designated representative'' of the COTP is any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP's behalf. The designated representative may be on a Coast Guard vessel or New York State Police, Westchester County Police, Rockland County Police, or other designated craft; or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(7) Upon being hailed by a Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(8) For the purpose of this regulation, the Federal navigation channel, located in the Eastern RNA is marked by the red and green navigation lights on the existing Tappan Zee Bridge, and the New NY Bridge. As the project progresses, the Federal navigation channel will be intermittently closed, or partially restricted, to all vessel transits. While the Federal navigation channel is closed, vessels that can safely navigate outside the Federal navigation channel would still be able to transit through the Eastern RNA. These closures or partial restrictions are tentatively scheduled to take place between March 2015 and October 2016. The COTP will cause a notice of the channel closure or restrictions by appropriate means to the affected segments of the public. Such means of notification may include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners.

(9) Notwithstanding anything contained in this section, the Rules of the Road (33 CFR part 84—Subchapter E, inland navigational rules) are still in effect and must be strictly adhered to at all times.

(d) *Enforcement Periods.* This regulation will be enforced 24 hours a day from 11:59 p.m. on December 31, 2019 until 11:59 p.m. on July 1, 2020.

(1) Notice of suspension of enforcement: If enforcement is suspended, the COTP will cause a notice of the suspension of enforcement by appropriate means to the affected segments of the public. Such means of notification may include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Such notification will include the date and time that enforcement will be suspended as well as the date and time that enforcement will resume.

(2) Violations of this regulation may be reported to the COTP at 718–354–4353 or on VHF-Channel 16.

Dated: December 23, 2019.

A.J. Tiongson,

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

[FR Doc. 2019–28115 Filed 1–2–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0961]

RIN 1625–AA08

Safety Zone; Lower Mississippi River, Vidalia, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Lower Mississippi River between Mile Marker (MM) 364.5 and MM 365.5, upriver of the Bienville Trace Scenic Byway/US–425 Bridge in Vidalia, LA. This action is necessary to provide for the safety of persons, vessels, and the marine environment during a fireworks display. Entry of persons or vessels into this zone is prohibited unless authorized by the Captain of the Port Sector Lower Mississippi River or a designated representative.

DATES: This rule is effective from 6 p.m. through 7 p.m. on December 31, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0961 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Chief Petty Officer Todd Manow, Waterways Management, Sector Lower Mississippi River, U.S. Coast Guard; telephone 901–521–4813, email *Todd.M.Manow@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency, for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone by December 31, 2019, and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the date of the event and compromise public safety.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is necessary to protect persons and property from the potential hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Lower Mississippi River (COTP) has determined that potential hazards associated with the barge-based fireworks display located at mile marker (MM) 365.0 on the Lower Mississippi River and scheduled for 6 p.m. on December 31, 2019, would be a safety concern for all persons and vessels on the Lower Mississippi River between MM 364.5 and MM 365.5 from 6 p.m. through 7 p.m. on December 31, 2019. Hazards associated with the firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is necessary to ensure the safety of persons, vessels, and the marine environment on these navigable waters before, during, and after the fireworks.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 6 p.m. through 7 p.m. on December 31, 2019. The safety zone will cover all navigable waters of the Lower Mississippi River from MM 364.5 to MM 365.5, upriver of the Bienville Trace Scenic Byway/US–425 Bridge, in Vidalia, LA. The duration of this safety zone is intended to ensure the safety of waterway users on these navigable waters before, during, and after the scheduled fireworks display.

Entry of persons or vessels into this safety zone is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Lower Mississippi River. Persons or vessels seeking to enter the safety zones must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 901–521–4822. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessel traffic will be prohibited from entering this safety zone, which will impact a one-mile stretch of lower Mississippi River for one hour on one evening. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–

FM marine channel 16 about the safety zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry on a one-mile stretch of the Lower Mississippi River for one hour on one evening. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0961 to read as follows:

§ 165.T08–0961 Safety Zone; Lower Mississippi River, Vidalia, LA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River from Mile Marker (MM) 364.5 to MM 365.5, upriver of the Bienville Trace Scenic Byway/US–425 Bridge, Vidalia, LA.

(b) *Effective date.* This section is effective from 6 p.m. through 7 p.m. on December 31, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Lower Mississippi River (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Lower Mississippi River.

(2) Persons or vessels seeking to enter the safety zone must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 901–521–4822.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone

through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: December 23, 2019.

R. Tamez,

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

[FR Doc. 2019–28190 Filed 12–30–19; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 412, 414, 416, 419, and 486

[CMS–1717–CN]

RIN 0938–AT74

Medicare Program: Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Revisions of Organ Procurement Organizations Conditions of Coverage; Prior Authorization Process and Requirements for Certain Covered Outpatient Department Services; Potential Changes to the Laboratory Date of Service Policy; Changes to Grandfathered Children's Hospitals-Within-Hospitals; Notice of Closure of Two Teaching Hospitals and Opportunity To Apply for Available Slots; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors that appeared in the final rule with comment period that appeared in the November 12, 2019, issue of the **Federal Register** titled ''Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Revisions of Organ Procurement Organizations Conditions of Coverage; Prior Authorization Process and Requirements for Certain Covered Outpatient Department Services; Potential Changes to the Laboratory Date of Service Policy; Changes to Grandfathered Children's Hospitals-Within-Hospitals; Notice of Closure of Two Teaching Hospitals and Opportunity to Apply for Available Slots.''

DATES:

Effective date: This correcting document is effective January 1, 2020.

Applicability date: The corrections in this correcting document are applicable on and after January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Elise Barringer via email *Elise.barringer@cms.hhs.gov* or at (410) 786–9222.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2019–24138 of November 12, 2019 (84 FR 61142), there were a number of technical and typographical errors that are identified and corrected by the Correction of Errors section below. The corrections in this correction document are effective as if they had been included in the document that appeared in the November 12, 2019 issue of the **Federal Register**. Accordingly, the corrections are effective January 1, 2020.

II. Summary of Errors

A. Summary of Errors in the Preamble

1. Hospital Outpatient Prospective Payment System (OPPS) Corrections

On page 61162, we inadvertently omitted a discussion of the re-establishment of Comprehensive-Ambulatory Payment Classification (C–APC) 5495 (Level 5 Intraocular Procedures) in the description of additional C–APCs that are finalized for calendar year (CY) 2020. Therefore, we are correcting the final rule with comment period to add this description.

On page 61182, we are correcting the standard wage index conversion factor budget neutrality adjustment from 0.9990 to 0.9991, which also results in the overall wage index budget neutrality factor changing from 0.9981 to 0.9982. This correction is necessary because some of the CY 2020 wage indexes used for calculating budget neutrality were based on the incorrect assignment of a rural wage index rather than the rural floor. We note that this affected both the conversion factor, which changes from $80.784 to $80.793, as well as all CY 2020 OPPS payment rates included in the final rule with comment period that are based on that OPPS conversion factor. Therefore, on page 61420, we are correcting the full and reduced conversion factors based on the previously described change to the standard wage index budget neutrality adjustment.

This change in the OPPS conversion factor and payments also slightly affects the OPPS impact table, with relative increases and decreases based on assignment of the correct wage index and the corresponding increase in the OPPS conversion factor. As a result, on pages 61474 through 61478, we are correcting the impact table and accompanying preamble text based on the corrected payment rates, which are being updated in this correction notice. We note that there was also an error in the impact file, in which wage indexes that did not include the 5 percent cap on wage index decreases relative to 2019 (as described in the CY 2020 OPPS final rule with comment period (84 FR 61184 through 61188)) were incorrectly displayed as being the final CY 2020 wage indexes. This correction notice corrects these wage indexes in a revised impact file accompanying the correction notice.

On page 61194, we are correcting the reporting ratio. On page 61195, we are correcting the CY 2020 example of the supporting calculations for both the full and reduced national unadjusted payment rates that will apply to certain outpatient items and services performed by hospitals that meet and that fail to meet the Hospital Outpatient Quality Reporting (OQR) Program requirements. On page 61196, we are correcting the beneficiary copayment amount calculated for APC 5071 and the national unadjusted payment rate for APC 5071. We also are correcting the reporting ratio for hospitals that failed to meet hospital OQR program requirements. These corrections are necessary because of the correction to the wage index budget neutrality adjustment and the corresponding change to the OPPS conversion factor.

On page 61184, we are correcting the preamble language that incorrectly states the difference between pass-through spending in 2019 and pass-through spending in 2020 as being a difference of 0.88 percentage points. Instead, the difference in pass-through spending in 2019 and 2020 is 0.74 percentage point, which is the difference between the 0.14 percent of total 2019 OPPS spending for pass-through drugs, biologicals, and devices and 0.88 percent of total 2020 OPPS spending for pass-through drugs, biologicals, and devices. We note that this inaccuracy was limited to the preamble language, and did not affect the calculated CY 2020 OPPS payment rates included elsewhere in the final rule with comment period.

On pages 61296 and 61336, we incorrectly referred to the CUSTOM*FLEX*® ARTIFICIAL*IRIS* as ARTIFICIAL*Iris*®. We are correcting the final rule with comment period to refer to the device by the correct name: CUSTOM*FLEX*® ARTIFICIAL*IRIS*.

On page 61306, we are correcting Table 41, ''Drugs and Biologicals with Pass-Through Payment Status during CY 2020''. We are removing records for HCPCS codes C9407 (Iodine i-131 iobenguane, diagnostic, 1 millicurie) and C9408 (Iodine i-131 iobenguane, therapeutic, 1 millicurie). We are adding a record for HCPCS code A9590 (Iodine i-131, iobenguane, 1 millicurie). This change was made because HCPCS codes C9407 and C9408 will no longer be active as of December 31, 2019. Both of these codes are being replaced by HCPCS code A9590. In the final rule, CMS mistakenly left the records for C9407 and C9408 in Table 41 and did not include the record for A9590.

On page 61313, we incorrectly stated that ASP data from the first quarter of CY 2019 was used to calculate payment rates in the CY 2020 proposed rule. We are correcting the final rule with comment period to refer to the data that was used to calculate payment rates in the CY 2020 proposed rule: ASP data from the fourth quarter of 2018.

On page 61313, we incorrectly stated that ASP data from the third quarter of CY 2019 were used to calculate payment rates in the CY 2020 final rule with comment period. We are correcting the final rule with comment period to refer to the data that was used to calculate payment rates in the CY 2020 final rule with comment period: ASP data from the second quarter of CY 2019.

On page 61320, we are correcting an incorrect description of the final CY 2020 policy regarding the payment of non pass-through biosimilars acquired under the 340B Program. We stated that we were finalizing our proposal, which was to continue to pay non pass-through biosimilars acquired under the 340B Program at the biosimilar's ASP minus 22.5 percent of the biosimilar's ASP, not minus 22.5 percent of the reference product's ASP.

On page 61337, we are correcting our estimate of the cost of drugs and biologicals recently made eligible for pass-through payment and continuing on pass-through payment status for at least one quarter in CY 2020. The cost estimate was misstated in the preamble text of the final rule. The correct estimated cost is $425.6 million, not $339.6 million.

On pages 61448 through 61450, we incorrectly labeled and referenced the table ''Proposed List of Outpatient Services That Would Require Prior Authorization'' as Table 38. We are correcting the document to use the correct number, which is Table 64.

On pages 61456 and 61457, we incorrectly labeled and referenced the table as ''Table 64—Proposed List of Outpatient Services That Would Require Prior Authorization.'' We are correcting the document to use the correct number, which is Table 65, as well as the correct title which states ''Final'' rather than ''Proposed'' and removes the word ''Would''. The corrected table reads: ''Table 65—Final List of Outpatient Services That Require Prior Authorization.'' We also inadvertently omitted two additional botulinum toxin injection codes, J0586 and J0588, as noted on page 61456. Therefore, we are adding these codes to Table 65—Final List of Outpatient Services That Require Prior Authorization.

On pages 61458 through 61463, we inadvertently included an earlier iteration of the section titled ''Summary of the Public Comments and Responses to Comments on the Proposed Rule''. We are removing this language.

On page 61464, we erroneously included Table 65, which is identical to the Table 38, which is corrected to be numbered correctly as Table 64 above. We are removing the table.

2. Ambulatory Surgical Center (ASC) Payment System Corrections

On page 61381, we inadvertently omitted a comment and response regarding the temporary office-based designation of CPT code 64624. We are correcting the document to include this comment and response.

On page 61384, as a result of the correction to the OPPS conversion factor, we are correcting the ASC device offset amount for CPT code 22869 from ''$8,383.12'' to ''$8,384.05.''

On page 61388, as a result of the correction to the OPPS conversion factor, we are correcting ASC payment rate for total knee arthroplasty, CPT code 27447, from ''$8,609.17'' to ''$8,609.82'', and the ASC coinsurance from ''$1,721.83'' to ''$1,721.96''. Additionally, in that same sentence, we are correcting the OPPS payment rate for total knee arthroplasty from ''$11,899.39'' to ''$11,900.71''.

On page 61409, we inadvertently omitted a discussion of the final ASC conversion factors for ASCs that meet the quality requirements and ASCs who failed to meet the quality requirements in the description of updated ASC conversion factors for CY 2020. Therefore, we are adding this text.

B. Summary of Errors and Corrections to the OPPS and ASC Addenda Posted on the CMS Website

1. OPPS Addenda Posted on the CMS Website

In Addendum B of the CY 2020 OPPS/ASC final rule with comment period, HCPCS codes 99487, 99489, and 99490 were incorrectly assigned to status indicator ''B'' to indicate that another more appropriate code should be reported. However, the HCPCS codes that CMS considered more appropriate, HCPCS codes G2059, G2060, and G2057, respectively, were not adopted for implementation in CY 2020. Therefore, these codes were mistakenly assigned status indicator ''B'' and in Addendum B (Final OPPS Payment by HCPCS Code for CY 2020), we corrected the following:

- *CPT code 99487 (Cmplx chron care w/o pt vsit):* We made a typographical error in the status indicator and APC assignments. Specifically, we are correcting the status indicator from ''B'' to ''S'', and the APC assignment to APC 5822 (Level 2 Health and Behavior Services).
- *CPT code 99489 (Cmplx chron care addl 30 min):* We made a typographical error in the status indicator assignment. Specifically, we are correcting the status indicator from ''B'' to ''N''.
- *CPT code 99490 (Chron care mgmt srvc 20 min):* We made a typographical error in the status indicator and APC assignments. Specifically, we are correcting the status indicator from ''B'' to ''S'', and the APC assignment to APC 5822 (Level 2 Health and Behavior Services).

In Addendum C (Final HCPCS Codes Payable Under the 2020 OPPS by APC), we corrected the following:

- CPT code 99487 (Cmplx chron care w/o pt vsit) was added to APC 5822 (Level 2 Health and Behavior Services).
- CPT code 99490 (Chron care mgmt srvc 20 min) was added to APC 5822 (Level 2 Health and Behavior Services).

In Addendum P in the spreadsheet in the tab titled ''2020 FR Device Intensive List,'' we inadvertently included CPT code 86891 (Autologous blood op salvage) in the list. HCPCS 86891 was not proposed as a device-intensive procedure for CY 2020. It is appropriate to remove HCPCS 86891 from the device-intensive list because it is a lab code for ''processing and storage of blood unit or component'' and is not reported with a device code. We have removed this procedure from the list as this procedure does not meet the criteria for device-intensive status.

To view the corrected CY 2020 OPPS status indicators, APC assignments, relative weights, payment rates, copayment rates, device-intensive status, and short descriptors for Addendum A, B, C, and P that resulted from the technical corrections described in this correcting document, we refer readers to the Addenda and supporting files that are posted on the CMS website

at: *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/index.html.* Select ''CMS–1717–CN'' from the list of regulations. All corrected Addenda for this correcting document are contained in the zipped folder titled ''2020 OPPS Final Rule Addenda'' at the bottom of the page for CMS–1717–CN.

2. ASC Payment System Addenda Posted on the CMS Website

The ASC device intensive methodology calculated estimated device cost based on OPPS payment rates. As a result of the correction to the OPPS conversion factor, we corrected the payment rates for device-intensive surgical procedures in Addendum AA. In addition, we corrected the following in Addendum BB:

- *CPT code 78431:* Updated the payment rate from $1,137.28 to $1,137.15.
- *CPT code 78432:* Updated the payment rate from $1,389.95 to $1,389.79.
- *CPT code 78433:* Updated the payment rate from $1,389.95 to $1,389.79.
- *HCPCS code J7331:* Added to Addendum BB with a payment rate of $6.13.
- *HCPCS code J7332:* Added to Addendum BB with a payment rate of $25.18.

HCPCS codes J7331 and J7332 were listed in the OPPS Addendum B of the CY 2020 OPPS/ASC final rule but were inadvertently omitted from ASC Addendum AA. Since pricing information was not available at the time the final rule was developed, both HCPCS codes received the payment indicator Y5 (Nonsurgical procedure/item not valid for Medicare purposes because of coverage, regulation and/or statute; no payment made) and were mistakenly omitted from the addendum. We are correcting this omission now with updated pricing information. These codes have been flagged with comment indicator N1 in Addendum BB of the CY 2020 OPPS/ASC correction notice to indicate that we have assigned the codes an interim ASC payment indicator of K2 for CY 2020. We intend to invite public comments in the CY 2021 OPPS/ASC proposed rule on the interim ASC payment indicator for these codes that we intend to finalize in the CY 2021 OPPS/ASC final rule with comment period.

To view the corrected final CY 2020 ASC payment indicators, payment weights, payment rates, and multiple procedure discounting indicator for Addendum AA and BB that resulted from these technical corrections, we refer readers to the Addenda and supporting files on the CMS website at: *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ASCPayment/ASC-Regulations-and-Notices.html.* Select ''CMS–1717–CN'' from the list of regulations. All corrected ASC addenda for this correcting document are contained in the zipped folder entitled ''Addendum AA, BB, DD1, DD2, and EE'' at the bottom of the page for CMS–1717–CN.

III. Waiver of Proposed Rulemaking, 60-Day Comment Period, and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rulemaking in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rulemaking in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, section 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment rulemaking process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and agency includes a statement of support.

We believe that this correcting document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This document corrects technical and typographic errors in the preamble, addenda, payment rates, and tables included or referenced in the CY 2020 OPPS/ASC final rule with comment period but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule with comment period. As a result, this correcting document are intended to ensure that the information in the CY 2020 OPPS/ASC final rule with comment period accurately reflects the policies adopted in that document.

In addition, even if this were a rulemaking to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule with comment period or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to receive appropriate payments in as timely a manner as possible, and to ensure that the CY 2020 OPPS/ASC final rule with comment period accurately reflects our methodologies and policies as of the date they take effect and are applicable.

Furthermore, such procedures would be unnecessary, as we are not altering our payment methodologies or policies, but rather, we are simply correctly implementing the policies that we previously proposed, received comment on, and subsequently finalized. This correcting document is intended solely to ensure that the CY 2020 OPPS/ASC final rule with comment period accurately reflects these payment methodologies and policies. For these reasons, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In FR Doc. 2019–24138 of November 12, 2019 (84 FR 61142), make the following corrections:

1. On page 61162, column 1, first partial paragraph, in line 15, add the following text: ''As discussed in section III.D.16 of this final rule with comment period, we are also re-establishing C–APC 5495 (Level 5 Intraocular Procedures) for CY 2020 based on need for a Level 5 for the Intraocular Procedures C–APC clinical family.''

2. On page 61182, column 3, second partial paragraph,

a. In line 14, the figure ''0.9981'' is corrected to read ''0.9982''.

b. In line 16, the figure ''0.9990'' is corrected to read ''0.9991''.

3. On page 61184, column 1, second full paragraph,

a. In line 9, the figure ''$80.784'' is corrected to read ''$80.793''.

b. In line 17, the figure ''0.9981'' is corrected to read ''0.9982''.

c. In line 18, the figure ''0.88 percentage point'' is corrected to read ''0.74 percentage point''.

d. In line 22, the figure ''$80.784'' is corrected to read ''$80.793''.

4. On page 61194, column 2, third full paragraph, line 23, the figure ''0.980'' is corrected to read ''0.981''.

5. On page 61195, column 2,

a. Second full paragraph,

(1) In line 17, the figure ''$609.94'' is corrected to read ''$610.01''.

(2) In line 21, the figure ''$598.35'' is corrected to read ''$598.42''.

b. Third full paragraph,

(1) In line 7, the figure ''$470.84'' is corrected to read ''$470.91''.

(2) In line 8, the figure ''$609.94'' is corrected to read ''$610.01''.

(3) In line 11, the equation ''$461.90 (.60 * $598.35 * 1.2866)'' is corrected to read ''$461.95 (.60 * $598.42 * 1.2866)''.

(4) In line 14, the equation ''$243.98 (.40 * $609.94)'' is corrected to read ''$244.00 (.40 * $610.01)''.

(5) In line 17, the equation ''$239.34 (.40 * $598.35)'' is corrected to read ''$239.37 (.40 * $598.42)''.

(6) In lines 21 and 22, the equation ''$714.82 ($470.84 + $243.98)'' is corrected to read ''$714.91 ($470.91 + $244.00)''.

(7) In lines 24 and 25, the equation ''$701.24 ($461.90 + $239.34)'' is corrected to read ''$701.32 ($461.95 + $239.37)''.

6. On page 61196, column 3,

a. First full paragraph, labeled ''Step 1'',

(1) In line 5, the figure ''$121.99'' is corrected to read ''$122.01''.

(2) In line 8, the figure ''$609.94'' is corrected to read ''$610.01''.

b. Second to last paragraph, labeled ''Step 4'', in line 5, the figure ''0.980'' is corrected to read ''0.981''.

7. On page 61296, column 3, last paragraph,

a. In line 5, ''ARTIFICIAL*Iris*®'' is corrected to read ''CUSTOM*FLEX*® ARTIFICIAL*IRIS*''.

b. In line 7, ''ARTIFICIAL*Iris*®'' is corrected to read ''CUSTOM*FLEX*® ARTIFICIAL*IRIS*''.

c. In line 12, ''ARTIFICIAL*Iris*®'' is corrected to read ''CUSTOM*FLEX*® ARTIFICIAL*IRIS*''.

8. On page 61306, Table 41—Drugs and Biologicals With Pass-Through Status During CY 2020, is corrected by—

a. Removing the following rows:

CY 2019 HCPCS code	CY 2020 HCPCS code	Long descriptor	CY 2020 status indicator	CY 2020 APC	Pass-through payment effective date	Pass-through payment end date
C9407	C9407	Iodine i-131 iobenguane, diagnostic, 1 millicurie.	G	9184	01/01/2019	12/31/2021
C9408	C9408	Iodine i-131 iobenguane, therapeutic, 1 millicurie.	G	9185	01/01/2019	12/31/2021

b. Adding the following row in alphabetical and numerical order:

CY 2019 HCPCS code	CY 2020 HCPCS code	Long descriptor	CY 2020 status indicator	CY 2020 APC	Pass-through payment effective date	Pass-through payment end date
C9407 and C9408	A9590	Iodine i-131, iobenguane, 1 millicurie.	G	9185	01/01/2019	12/31/2021

9. On page 61313,

a. Column 1, first full paragraph, in line 4, the words ''first quarter of CY 2019'' are corrected to read ''fourth quarter of CY 2018''.

b. Column 3, first full paragraph, in lines 5 and 6, the words ''third quarter of CY 2019'' are corrected to read ''second quarter of CY 2019''.

10. On page 61320, column 1, first partial paragraph, in lines 1 through line 7, remove the text ''We also are finalizing our proposal to pay non pass-through biosimilars acquired under the 340B Program at the biosimilar's ASP minus 22.5 percent of the reference product's ASP, in accordance with section 1833(t)(14)(A)(iii)(II) of the Act.'' and replace with the text ''We also are finalizing our proposal to pay non pass-through biosimilars acquired under the 340B Program at the biosimilar's ASP minus 22.5 percent of the biosimilar's ASP, in accordance with section 1833(t)(14)(A)(iii)(II) of the Act.''

11. On page 61336, column 3, first full paragraph,

a. In line 9, ''ARTIFICIAL*Iris*®'' is corrected to read ''CUSTOM*FLEX*® ARTIFICIAL*IRIS*''.

b. In line 18, ''ARTIFICIAL*Iris*®'' is corrected to read ''CUSTOM*FLEX*® ARTIFICIAL*IRIS*''.

12. On page 61337, column 1, in the last two lines of the first partial paragraph, the figure ''$399.6 million'' is corrected to read ''$425.6 million''.

13. On page 61381, column 3, first full paragraph,

a. In lines 1 and 2, remove the text ''We did not receive any public comments on our proposal.'' and add the following text:

Comment: One commenter requested that CPT code 64624 (Destruction by neurolytic agent, genicular nerve branches, including imaging guidance, when performed) be assigned a payment indicator for CY 2020 of ''G2''—Non office-based surgical procedure added in CY 2008 or later; payment based on OPPS relative payment weight. The commenter argued that the RVS Relative Update Committee (RUC) (a committee of volunteer physicians that advise Medicare on the valuation of services paid under the Medicare Physician Fee Schedule) survey responders reported performing genicular nerve ablation in a facility 65 percent of the time and that ''G2'' is the more accurate payment indicator for the CPT code, similar to CPT code 64625 (Radiofrequency ablation, nerves innervating the sacroiliac joint, with image guidance (that is, gluoroscopy or computed tomography)) which is assigned a payment indicator of ''G2'' for CY 2020.

Response: We appreciate the commenter's suggestion. While we agree that RUC survey responders reported performing this procedure 35 percent of the time in a physician's office setting, CPT code 64624 is a new code effective Jan 1, 2020. The service is currently reported using CPT code 64640

(Destruction by neurolytic agent; other peripheral nerve or branch). When we looked at the previous procedure codes CPT 77002 and 64640, we found that the volume would surpass the 50 percent office-based threshold. Additionally, CPT code 64640 is assigned an office-based payment indicator for CY 2020 of ''P3''—Office-based surgical procedure added to ASC list in CY 2008 or later with MPFS nonfacility PE RVUs; payment based on MPFS nonfacility PE RVUs. Therefore, we are finalizing our proposal to assign CPT code 64624 a temporary office-based designation of ''P3'' for CY 2020.

b. In line 2, delete the word ''Therefore''.

c. In line 3, capitalize the word ''we''.

14. On page 61384, column 3, first full paragraph,

a. In line 6, the figure ''$8,383.12'' is corrected to read ''$8,384.05''.

b. In line 23, the figure ''$8,383.12'' is corrected to read ''$8,384.05''.

15. On page 61388, column 1, third full paragraph,

a. In line 23, the figure ''$8,609.17'' is corrected to read $8,609.82'' and the ASC coinsurance from ''$1,721.83'' to ''$1,721.96''.

b. In line 25, the figure ''$11,899.39'' is corrected to read ''$11,900.71''.

16. On page 61409, column 2,

a. End of the second full paragraph, after the words, ''. . . determine the CY 2020 ASC payment rates.'' add the following sentences: ''The ASCQR Program affected payment rates beginning in CY 2014 and, under this program, there is a 2.0 percentage point reduction to the update factor for ASCs that fail to meet the ASCQR Program requirements. We are finalizing our proposal to utilize the hospital inpatient market basket update of 3.0 percent reduced by 2.0 percentage points for ASCs that do not meet the quality reporting requirements and then subtract the 0.4 percentage point MFP adjustment. Therefore, we are applying a 0.6 percent MFP-adjusted hospital market basket update factor to the CY 2019 ASC conversion factor for ASCs that do not meet the quality reporting requirements.

b. After the second full paragraph and before the section titled ''3. Display of Final CY 2020 ASC Payment Rates,'' add the following paragraph:

''For CY 2020, we are adjusting the CY 2019 ASC conversion factor ($46.532) by the proposed wage index budget neutrality factor of 1.0001 in addition to the MFP-adjusted hospital market basket update factor of 2.6 percent discussed above, which results in a final CY 2020 ASC conversion factor of $47.747 for ASCs meeting the quality reporting requirements. For ASCs not meeting the quality reporting requirements, we are adjusting the CY 2019 ASC conversion factor ($46.532) by the proposed wage index budget neutrality factor of 1.0001 in addition to the quality reporting/MFP-adjusted hospital market basket update factor of 0.6 percent, which results in a final CY 2020 ASC conversion factor of $46.816.''

17. On page 61420, column 1, second full paragraph,

a. In line 4, the figure ''80.784'' is corrected to read ''80.793''.

b. In line 8, the figure ''79.250'' is corrected to read ''79.257''.

18. On page 61448,

a. Column 2, first full paragraph, in line 4, ''Table 38'' is corrected to read ''Table 64''.

b. Column 3, second full paragraph,

(1) In line 3, ''(Table 38)'' is corrected to read ''(Table 64)''.

(2) In line 17, ''Table 38'' is corrected to read ''Table 64''.

19. On page 61449, column 3, last paragraph, in line 1, ''Table 38'' is corrected to read ''Table 64''.

20. On page 61450, ''Table 38—Proposed List of Outpatient Services That Would Require Prior Authorization'' is corrected to read ''Table 64—Proposed List of Outpatient Services That Would Require Prior Authorization''.

21. On page 61456, third column, second full paragraph, line 11, ''Table 64'' is corrected to read ''Table 65''.

22. On page 61457,

a. The table titled ''Table 64—Proposed List of Outpatient Services That Would Require Prior Authorization'' is corrected to read: ''Table 65—Final List of Outpatient Services That Require Prior Authorization.''

b. In numerical order, add rows for botulinum toxin injection codes J0586 and J0588 after the rows for codes J0585 and J0587, respectively, as follows:

Code	(ii) Botulinum toxin injection
J0586	Injection, abobotulinumtoxina.
J0588	Injection, incobotulinumtoxin a.

23. On pages 61458 through 61463, remove the section titled, ''4. Summary of Public Comments and Responses to Comments on the Proposed Rule'' in its entirety.

24. On page 61464, remove Table 65 in its entirety.

25. On page 61474,

a. Column 2, first full paragraph, in line 19, the figure ''$80.784'' is corrected to read ''$80.793''.

b. Column 3, second full paragraph, in line 6, the figure ''1.5'' is corrected to read ''1.6''.

26. On page 61475 through 61478, Table 68—Estimated Impact of the CY 2020 Changes for the Hospital Outpatient Prospective Payment System, is corrected to read as follows:

TABLE 68—ESTIMATED IMPACT OF THE CY 2020 CHANGES FOR THE HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM

	Number of hospitals (1)	APC recalibration (all changes) (2)	New wage index and provider adjustments (3)	All budget neutral changes (combined cols 2 and 3) with market basket update (4)	Existing off-campus provider based department visits policy (5)	All changes (6)
ALL PROVIDERS*	3,732	0.0	0.1	2.7	−0.6	1.3
ALL HOSPITALS (excludes hospitals held harmless and CMHCs)	3,625	0.0	0.1	2.7	−0.6	1.3
URBAN HOSPITALS	2,849	0.1	0.0	2.7	−0.5	1.3
LARGE URBAN (GT 1 MILL.)	1,471	0.0	−0.2	2.4	−0.4	1.2
OTHER URBAN (LE 1 MILL.)	1,378	0.1	0.2	3.0	−0.6	1.4
RURAL HOSPITALS	776	−0.5	0.7	2.8	−0.6	1.1
SOLE COMMUNITY	365	−0.5	0.7	2.8	−0.7	0.9
OTHER RURAL	411	−0.6	0.7	2.7	−0.5	1.3
BEDS (URBAN)	.....	.....	.....	.....	.....	.....
0–99 BEDS	973	0.4	0.1	3.2	−0.4	1.9
100–199 BEDS	822	−0.1	0.0	2.5	−0.5	1.2

TABLE 68—ESTIMATED IMPACT OF THE CY 2020 CHANGES FOR THE HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM—Continued

	Number of hospitals (1)	APC recalibration (all changes) (2)	New wage index and provider adjustments (3)	All budget neutral changes (combined cols 2 and 3) with market basket update (4)	Existing off-campus provider based department visits policy (5)	All changes (6)
200–299 BEDS	444	0.0	0.0	2.6	−0.5	1.3
300–499 BEDS	390	0.1	0.3	3.0	−0.5	1.5
500+ BEDS	220	0.1	−0.1	2.6	−0.7	1.1
BEDS (RURAL)						
0–49 BEDS	342	−0.9	1.2	2.9	−0.3	1.5
50–100 BEDS	267	−0.6	0.9	2.9	−0.7	0.9
101–149 BEDS	87	−0.6	0.9	2.9	−0.6	1.2
150–199 BEDS	43	−0.2	0.8	3.3	−0.9	1.3
200+ BEDS	37	−0.1	−0.5	2.0	−0.6	0.7
REGION (URBAN)						
NEW ENGLAND	134	−0.3	−2.0	0.3	−1.0	−1.3
MIDDLE ATLANTIC	335	0.0	0.1	2.7	−0.4	1.5
SOUTH ATLANTIC	461	0.1	−0.1	2.5	−0.5	1.3
EAST NORTH CENT	456	−0.1	−0.2	2.3	−0.7	0.8
EAST SOUTH CENT	165	0.2	0.8	3.6	−0.2	2.6
WEST NORTH CENT	179	0.3	1.2	4.1	−0.6	1.7
WEST SOUTH CENT	491	0.4	0.2	3.2	−0.5	1.9
MOUNTAIN	208	0.0	−0.2	2.4	−0.5	0.7
PACIFIC	373	0.3	0.5	3.4	−0.5	2.1
PUERTO RICO	47	1.0	17.8	22.0	0.0	20.9
REGION (RURAL)						
NEW ENGLAND	21	−0.5	−1.3	0.7	−1.9	−1.8
MIDDLE ATLANTIC	53	−0.6	−0.1	1.9	−1.0	0.2
SOUTH ATLANTIC	119	−0.8	0.9	2.7	−0.2	1.7
EAST NORTH CENT	120	−0.5	−0.2	1.9	−0.7	0.5
EAST SOUTH CENT	150	−0.5	1.2	3.3	−0.2	2.3
WEST NORTH CENT	96	−0.3	1.5	3.9	−0.8	1.1
WEST SOUTH CENT	145	−0.6	1.1	3.0	−0.3	2.0
MOUNTAIN	49	−0.3	2.4	4.8	−0.3	1.1
PACIFIC	23	−0.6	0.7	2.7	−1.0	1.0
TEACHING STATUS						
NON-TEACHING	2,469	−0.1	0.3	2.8	−0.4	1.6
MINOR	781	0.1	0.2	2.9	−0.6	1.3
MAJOR	375	0.0	−0.2	2.4	−0.8	0.9
DSH PATIENT PERCENT						
0	13	2.5	0.5	5.6	0.0	4.4
GT 0–0.10	274	1.0	0.0	3.6	−0.3	2.3
0.10–0.16	256	0.0	0.0	2.6	−0.5	1.2
0.16–0.23	558	0.1	0.0	2.7	−0.4	1.4
0.23–0.35	1,117	−0.1	0.2	2.8	−0.6	1.2
GE 0.35	931	−0.1	0.1	2.6	−0.6	1.2
DSH NOT AVAILABLE **	476	2.0	0.4	5.1	−0.4	4.2
URBAN TEACHING/DSH						
TEACHING & DSH	1,038	0.1	0.0	2.7	−0.7	1.1
NO TEACHING/DSH	1,344	0.1	0.1	2.8	−0.3	1.6
NO TEACHING/NO DSH	12	2.5	0.5	5.7	0.0	4.8
DSH NOT AVAILABLE2	455	1.8	0.2	4.7	−0.3	4.0
TYPE OF OWNERSHIP						
VOLUNTARY	1,981	0.0	0.1	2.6	−0.6	1.1
PROPRIETARY	1,182	0.4	0.2	3.2	−0.2	2.1
GOVERNMENT	462	−0.1	0.3	2.8	−0.7	1.3
CMHCs	41	1.4	0.5	4.6	0.0	3.7

Column (1) shows total hospitals and/or CMHCs.

Column (2) includes all final CY 2020 OPPS policies and compares those to the CY 2019 OPPS.

Column (3) shows the budget neutral impact of updating the wage index by applying the FY 2020 hospital inpatient wage index and the non-budget neutral frontier adjustment. The rural SCH adjustment continues our current policy of 7.1 percent so the budget neutrality factor is 1. The budget neutrality adjustment for the cancer hospital adjustment is 0.9999 because in CY 2020 the target payment-to-cost ratio is higher than the CY 2019 PCR target (0.89)

Column (4) shows the impact of all budget neutrality adjustments and the addition of the 2.6 percent OPD fee schedule update factor (hospital market basket percentage increase of 3.0 percent reduced by 0.4 percentage point for the productivity adjustment).

Column (5) shows the additional impact of the policy to pay clinic visits for nonexcepted providers under the otherwise applicable payment system. We note that we are completing the 2-year phase-in so the amount of the reduction will be the full difference in CY 2020 (or payment at 40 percent of the OPPS rate).

Column (6) shows the additional adjustments to the conversion factor resulting from a change in the pass-through estimate, and adding estimated outlier payments. Note that previous years included the frontier adjustment in this column, but we have moved the frontier adjustment to Column 3 in this table.

These 3,732 providers include children and cancer hospitals, which are held harmless to pre-BBA amounts, and CMHCs.

** Complete DSH numbers are not available for providers that are not paid under IPPS, including rehabilitation, psychiatric, and long-term care hospitals.

27. On page 61478, column 3, first partial paragraph, in line 8, the figure ''4.5'' is corrected to read ''4.6''.

Dated: December 19, 2019.

Ann C. Agnew,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2019–28364 Filed 12–30–19; 4:15 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 18–89, PS Docket Nos. 19–351, 19–352; FCC 19–121; FRS 16315]

Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs; Huawei Designation; ZTE Designation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts a rule that prospectively prohibits the use of Universal Service Fund (USF or the Fund) funds to purchase or obtain any equipment or services produced or provided by a covered company posing a national security threat to the integrity of communications networks or the communications supply chain. In doing so, the Report and Order initially designates Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE) as covered companies for purposes of the rule and establish a process for designating additional covered companies in the future. To support the Commission's future efforts to protect the communications supply chain, the Information Collection Order (Order) directs the Wireline Competition Bureau (WCB) and Office of Economics and Analytics (OEA), in coordination with USAC, to conduct an information collection to determine the extent to which potentially prohibited equipment exists in current networks and the costs associated with removing such equipment and replacing it with equivalent equipment.

DATES: Effective January 3, 2020.

FOR FURTHER INFORMATION CONTACT: For further information, please contact John Visclosky, Competition Policy Division, Wireline Competition Bureau, at *John.Visclosky@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order and Order in WC Docket No. 18–89 and PS Docket Nos. 19–351 and 19–352, adopted November 22, 2019 and released November 26, 2019. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554 or at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-19-121A1.pdf* . The Further Notice of Proposed Rulemaking that was adopted concurrently with this Report and Order and Order is published elsewhere in the **Federal Register**.

Comments on the initial designations of Huawei and ZTE as covered companies are due on or before February 3, 2020.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998). Interested parties may file comments, identified by PS Docket No. 19–351 for the Huawei final designation proceeding or PS Docket No. 19–352 for the ZTE final designation proceeding, by any of the following methods:

▪ *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/*.

▪ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. The Commission directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to use a table of contents, regardless of the length of their submission.

I. Introduction

1. In today's increasingly connected world, safeguarding the security and integrity of America's communications infrastructure has never been more important. Broadband networks have transformed virtually every aspect of the U.S. economy, enabling the voice, data, and internet connectivity that fuels all other critical industry sectors—including our transportation systems, electrical grid, financial markets, and emergency services. And with the advent of 5G—the next generation of wireless technologies, which is expected to deliver exponential increases in speed, responsiveness, and capacity—the crucial and transformative role of communications networks in our economy and society will only increase. It is therefore vital that the Commission protects these networks from national security threats.

2. The Commission has taken a number of targeted steps to protect the nation's communications networks from potential security threats. In this document, the Commission builds on these efforts, consistent with concurrent Congressional and Executive Branch actions, and ensure that the public funds used in the Commission's USF funds are not used in a way that undermines or poses a threat to our national security. Specifically, in the Report and Order, the Commission adopts a rule that prospectively prohibits the use of USF funds to purchase or obtain any equipment or services produced or provided by a

covered company posing a national security threat to the integrity of communications networks or the communications supply chain. In doing so, the Commission initially designates Huawei and ZTE as covered companies for purposes of this rule and establish a process for designating additional covered companies in the future.

3. Given the Commission's oversight of the USF programs that fund voice and broadband networks and services and the Commission's obligation to be responsible stewards of the public funds that subsidize those programs, the Commission has a specific, but important, role to play in securing the communications supply chain. The Commission believes that the steps the Commission takes in the document are consistent with this role, that the Commission must do all it can within the confines of its legal authority to address national security threats, and that its actions, along with those taken by other Executive Branch agencies, will go far in securing our nation's critical telecommunications infrastructure.

II. Report and Order

4. Based on the Commission's review of the extensive record in the proceeding, it adopts a rule that no universal service support may be used to purchase or obtain any equipment or services produced or provided by a covered company posing a national security threat to the integrity of communications networks or the communications supply chain. Accordingly, USF recipients may not use USF funds to maintain, improve, modify, operate, manage, or otherwise support such equipment or services in any way, including upgrades to existing equipment and services. This prohibition applies to any subsidiaries and affiliates of USF recipients to the extent that such subsidiaries and affiliates use USF funds.

5. In addition to adopting the rule, the Commission initially designates Huawei and ZTE as covered companies for the purposes of this prohibition. Both companies' ties to the Chinese government and military apparatus—together with Chinese laws obligating them to cooperate with any request by the Chinese government to use or access their systems—pose a threat to the security of communications networks and the communications supply chain and necessitate taking this step. The Commission's actions in this document are informed by the evidence cited herein, including the actions of other agencies and branches of the government and similar assessments from other countries.

6. As the Commission stated in the *Protecting Against National Security Threats Notice,* the promotion of national security is consistent with the public interest, and USF funds should be used to deploy infrastructure and provide services that do not undermine our national security. The Commission has long accorded significant weight to the views of Executive Branch agencies on matters of national security, foreign policy, law enforcement, and trade policy, and the Commission finds it very significant that the U.S. Department of Justice (DoJ) has expressed its strong support for this conclusion. The Commission also agrees with the Telecommunications Industry Association (TIA) that the Commission ''may reasonably conclude that limiting the use of technology from certain vendors deemed to pose a heightened national security risk is an appropriate element of providing a quality communications service.'' The record persuades the Commission that the nature of today's communications networks is such that untrusted participants in the supply chain pose a serious risk to the integrity and, thus, the quality of those networks.

7. It is well established that the Commission has authority to place reasonable public-interest conditions on the use of USF funds. In the 2011 *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011, the Commission determined that supported services must be provided using broadband-capable networks and that ETCs must offer broadband services that meet certain basic performance requirements. As the Tenth Circuit held in upholding the Commission's imposition of these obligations, section 254(c)(1) does not limit the Commission's authority to place conditions on the use of USF funds, and section 254(e) is reasonably interpreted as allowing the Commission ''to specify what a USF recipient may or must do with the funds,'' consistent with the policy principles outlined in section 254(b). The Commission adopts the rule as just such a restriction, based on its conclusion that it is critical to the provision of ''quality service'' that USF funds be spent on secure networks and not be spent on equipment and services from companies that threaten national security. Or, to put it another way, providing a secure service is part of providing a quality service.

8. The Commission disagrees with commenters who suggest that adopting the rule violates the principle that ''[q]uality services should be available at just, reasonable, and affordable rates.'' As TIA points out, many companies have been able to provide quality services at reasonable and affordable rates using suppliers whose quality, and risk to our national security, is not being questioned here. Furthermore, the Commission is not persuaded by arguments that the proposed rule would violate this principle by eliminating low-cost suppliers. Again, the record clearly demonstrates that service can be provided at just, reasonable, and affordable rates without these suppliers. Additionally, there is evidence that those low costs are likely due to favorable subsidies and other benefits bestowed by governments that are in an adversarial position to the United States. To the extent that certain vendors are able to offer lower prices for their equipment or services due to subsidization from foreign governments that pose a national security threat, restricting federal funding to those vendors should unleash competition from more-trusted, higher-quality suppliers in the long run, resulting in significant public interest benefits. Furthermore, the Commission would be shirking its responsibility to the American public if it were to ignore threats to our security posed by certain equipment manufacturers simply because that equipment was cheaper.

9. Moreover, the Commission must ensure that universal service funds are being spent in a manner consistent with section 254 of the Act. Section 254(e) requires that USF recipients ''shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.'' This language authorizes the Commission to designate the services for which USF support will be provided and to ''encourage the deployment of the types of facilities that will best achieve the principles set forth in section 254(b).'' The Commission also must define the services supported by USF, which the statute explains is to be ''an evolving level of telecommunications services that the Commission shall establish periodically under this section.'' In so doing, the Commission ''shall consider . . . the extent to which such telecommunications services . . . are consistent with the public interest, convenience, and necessity.'' Again, the Commission concludes that the public interest requires that the USF support only services that are not dependent on equipment and services provided or produced by any company that poses a national security threat. The Commission's decision here to limit the services that will be supported by USF is especially consistent with public safety, under section 254(c)(1)(A), and

with the public interest, convenience, and necessity, under section 254(c)(1)(D).

10. To the extent parties contend that the Commission may not change what it establishes as the ''evolving level of telecommunications services'' to be supported by USF without first seeking the recommendation of the Joint Board, the Commission disagrees. Section 254(c)(1) requires the Commission to establish the definition of universal service; it allows the Joint Board to issue a recommendation but does not require Commission action to be preceded by such a recommendation. The Commission has acted under this provision several times without following a recommendation of the Joint Board—for example in the *2014 First E-Rate Order,* 80 FR 167, January 5, 2015, and the *2016 Lifeline Order,* 81 FR 33026, May 24, 2016.

11. The Commission also rejects arguments that it may not consider national security in assessing the public interest generally or under section 254. Indeed, the security of our nation is an important part of the public interest. That's why the Commission has consistently held, including in the *Protecting Against National Security Threats Notice* in the proceeding, that national security concerns are part of the public interest and that the Commission's exercise of specific statutory authorities should, when warranted, take those concerns into account. As discussed in the *Protecting Against National Security Threats Notice,* the Commission adopted rules implementing the 2012 Spectrum Act to prohibit participation in spectrum auctions by entities that have been barred by any federal agency from bidding on a contract, participating in an auction, or receiving a grant. The Commission also has a long history of considering national security equities where other agencies have specific expertise and are positioned to make recommendations, and adopting a similar process here cannot be characterized as ''promot[ing] other, unrelated objectives'' unrelated to the specific regulatory program at hand.

12. More generally, section 201(b) of the Act authorizes the Commission to promulgate ''such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act.'' It is well-established that the promotion of national security is consistent with the public interest and part of the purpose for which the Commission was created. As section 1 of the Act states, the Commission was created ''for the purpose of the national defense [and] for the purpose of promoting safety of life and property through the use of wire and radio communication . . . .'' The Commission concludes based on the record of the proceeding that it is necessary in the public interest to prohibit USF recipients from spending universal service funds on covered equipment or services.

13. The action the Commission takes in this document also implements section 105 of the Communications Assistance for Law Enforcement Act (CALEA). That section requires every telecommunications carrier to ensure that any interception of communications or access to call-identifying information effected within its switching premises can be activated only pursuant to a lawful authorization and with the affirmative intervention of an officer or employee of the carrier. The Commission has concluded that all facilities-based providers of broadband internet access services and all providers of interconnected VoIP services are telecommunications carriers under CALEA. The Commission has interpreted ''switching premises'' consistent with the purpose of CALEA as including ''routers, soft switches, and other equipment that may provide addressing and intelligence functions for packet-based communications to manage and direct the communications along to their intended destinations.'' One of the dangers of allowing equipment from untrusted suppliers to be part of a network is the possibility that those suppliers will maintain the ability to illegally activate interceptions or other forms of surveillance within the carrier's switching premises without its knowledge, whether through the insertion of malicious hardware or software implants, remote network access maintained by providers of managed services, or otherwise. Telecommunications carriers, including all ETCs, therefore appear to have a duty to avoid such risks.

14. The Commission disagrees with Huawei that its recognition of this duty is barred by section 103(b)(1) of CALEA, 47 U.S.C. 1002(b)(1). The rule the Commission adopts in this document addresses only the use of USF funds and does not prohibit the ''adoption of any equipment.'' Furthermore, the Commission is not a ''law enforcement agency'' within the meaning of section 103(b)(1); in the context of CALEA, that term refers to agencies that conduct interceptions and access to call-identifying information.

15. The Commission is authorized to ''prescribe such rules as are necessary to implement the requirements of'' CALEA and specifically to require carriers to establish policies and procedures to prevent unauthorized surveillance. Though the rule the Commission adopts in this document applies only to ETCs' use of USF funds, it disagrees with Huawei's argument that the link between this obligation and the prohibition the Commission adopts here is ''remote.'' The rule the Commission adopts in this document directly implements section 105 of CALEA by reducing the likelihood that ETCs use USF funds to facilitate unauthorized surveillance. Nor does the rule require, as Huawei suggests, that the Commission interprets section 105 ''as prohibiting carriers from using any equipment that has *any* possibility, no matter how remote, of being subject to unauthorized access for purposes of intercepting communications.'' But use of equipment or services from companies that pose national security threats is far more likely to be subject to such unauthorized access, and the Commission chooses here not to allow USF funds to support such use.

16. The Commission further disagrees with Huawei's contention that CALEA's security provision does not apply to attempts by actors other than U.S. law enforcement to intercept or access communications. The plain language of section 105 specifies not only the activation of the assistance capabilities required by section 103 but any interception or access effected within a carrier's switching premises. This understanding of the plain language is consistent with its legislative history. The bills reported by the House and Senate Judiciary Committees used different language limiting the security obligation only to ''any court ordered or lawfully authorized interception of communications or access to call-identifying information within its switching premises,'' but that language was revised in consultation with the House Energy and Commerce Committee in the version of the bill ultimately considered and adopted on the floor of both Houses. The Commission considers the change to be purposeful and to reflect Congress's understanding of CALEA as enacting protections against unauthorized surveillance, not only as ensuring the ability of law enforcement to conduct authorized surveillance.

17. Congress has also determined, in section 889 of the National Defense Authorization Act for Fiscal Year 2019 (2019 NDAA), that the expenditure of loan or grant funds by federal agencies to procure or obtain covered telecommunications equipment or services is contrary to the security interests of the United States. Although

the USF is neither a loan program nor a grant program, it is a significant source of funds administered by the Commission and intended for the purchase of equipment, services, or systems with which section 889 is concerned. The Commission finds that the goals underlying section 889 of the 2019 NDAA also support its decision to take action here. Following enactment of the 2019 NDAA, the WCB sought comment on the relevance of section 889(b)(1) to the proceeding. The record now persuades the Commission that adoption of a rule that prohibits universal service funds from being used to obtain equipment or services produced or provided by companies that pose a threat to national security, and the Commission's initial designation of Huawei and ZTE as such companies, is consistent with section 889 of the 2019 NDAA. The Commission agrees with TIA that section 889 ''codifies a determination by Congress regarding five specific suppliers of concern,'' including Huawei and ZTE, and expresses a view that ''the role of the Commission and other executive agencies is to prevent the use of federal funds under their control on equipment and services from [those] suppliers of concern.''

18. The Commission establishes a process for designating entities as national security threats for purposes of its rule. The Commission first defines ''covered company'' to include subsidiaries, parents and affiliates of covered companies for purposes of the rule it adopts in this document. In the *Protecting Against National Security Threats Notice,* the Commission sought comment on whether a covered company's subsidiaries, parents, and/or affiliates should be treated as a covered company as well and sought comment on how to define such entities. Because equipment from subsidiaries, parents, and affiliates pose the same risks to network integrity as equipment directly from the covered company, the Commission includes any subsidiary, parent, or affiliate of a covered company as a covered company subject to its prohibition.

19. When the Commission initially determines, either *sua sponte* or in response to a petition from an outside party, that a company poses a national security threat to the integrity of communications networks or the communications supply chain, the Commission will issue a public notice advising that such initial designation has been made, as well as the basis for such designation. This public notice shall serve as an ''initial designation'' of a covered company. Upon the issuance of such notice, interested parties may file comments responding to the initial designation, including proffering an opposition to the initial designation. If the initial designation is unopposed, the entity shall be deemed to pose a national security threat 31 days after the issuance of the notice. If any party opposes the initial designation, the designation shall take effect only if the Commission determines that the affected entity should nevertheless be designated as a covered company under the Commission's rule. In either case, the Commission shall issue a second public notice announcing its final designation and the effective date of that final designation. This public notice shall serve as the ''final designation'' of a covered company. In order to provide regulatory certainty to entities affected by initial designations, the Commission shall make a final designation effective no later than 120 days after release of its initial designation notice. The Commission may, however, extend such 120-day deadline for good cause.

20. In formulating its initial and final designations, the Commission will use all available evidence to determine whether an entity poses a national security threat. Examples of such evidence may include, but are not limited to: determinations by the Commission, Congress or the President that an entity poses a national security threat; determinations by other executive agencies that an entity poses a national security threat; and, any other available evidence, whether open source or classified, that an entity poses a national security threat. Where appropriate, the Commission will seek to harmonize its determinations with the determinations of other federal agencies in the Executive branch and determinations of the Legislative branch. The Commission will base its determination on the totality of evidence surrounding the affected entity and should consider any evidence provided by the affected entity, or any other interested party, in making its final determination. However, classified information will not be made public, nor will it be made available to the designated company.

21. *Reversal of Designation.* The Commission will act to reverse its designation upon a finding that a covered company no longer poses a national security threat to the integrity of communications networks or the communications supply chain. A covered company, or any other interested party, may submit a petition asking the Commission to remove a designation based on a showing of changed circumstances. The Commission shall seek the input of Executive Branch agencies and the public upon receipt of such a petition. If the record shows that a covered company is no longer a national security threat, the Commission shall promptly issue an order reversing its designation of that company. The Commission may dismiss repetitive or frivolous petitions for reversal of a designation without notice and comment—and may dismiss petitions that make no showing of changed circumstances or attempt to evade the limits the Commission's rules place on petitions for reconsideration or applications for review. If the Commission reverses its designation, it shall issue an order announcing its decision along with the basis for its decision.

22. In the *Protecting Against National Security Threats Notice,* the Commission highlighted the longstanding concerns about the threats posed by Huawei and ZTE, including by other Executive Branch agencies and Congress. Both companies, as well as their subsidiaries and affiliates, are restricted from selling certain equipment and services to federal agencies due to Congressional and Executive Branch concern about the threat their equipment and services pose to the communications supply chain. Huawei vigorously responded to these allegations in the record of the proceeding, and ZTE did not make any filings in the proceeding. The Commission's examination of the record re-affirms the concerns raised by them in the *Protecting Against National Security Threats Notice,* and the Commission therefore takes the step of initially designating Huawei and ZTE as covered companies for purposes of the prohibition the Commission adopts in this document.

23. The Commission concludes that publicly available information in the record is sufficient to support these designations. In addition, the Commission has compiled and reviewed additional classified national security information that provides further support for its determinations.

24. The Commission agrees with commenters who argue that ''state actors, most notably China and Russia, have supported extensive and damaging cyberespionage efforts in the United States,'' and there exists a ''substantial body of evidence'' about the risks of certain equipment providers like Huawei and ZTE. International experts have found that China has a ''notorious reputation for persistent industrial espionage, and in particular for the close collaboration between government and Chinese industry.'' Allies of the

United States have discovered numerous instances where the Chinese government has engaged in malicious acts, including ''actors likely associated with the . . . Ministry of State Security . . . responsible for the compromise of several Managed Service Providers.'' And as noted in the *2012 HPSCI Report,* Huawei and ZTE are the ''two largest Chinese-founded, Chinese-owned telecommunications companies seeking to market critical network equipment to the United States.''

25. These two companies pose a great security risk because Chinese intelligence agencies have opportunities to tamper with their products in both the design and manufacturing processes. The *2012 HPSCI Report* observed that the risks posed by companies such as Huawei are further exacerbated because the company offers services managing telecommunications equipment and its ''authorized access'' could be exploited ''for malicious activity under the guise of legitimate assistance.'' This legislative concern has continued, with Congress passing, and the President signing into law, significant restrictions on the purchase of equipment and services from Huawei and ZTE. And, in the proceeding, the Attorney General has agreed that ''a company's ties to a foreign government and willingness to take direction from it bear on its reliability'' for building or servicing telecommunications networks with the support of federal funds. As explained in the following, the Commission believes that Huawei and ZTE pose a unique threat to the security of communications networks and the communications supply chain because of their size, their close ties to the Chinese government both as a function of Chinese law and as a matter of fact, the security flaws in their equipment, and the unique end-to-end nature of Huawei's service agreements that allow it key access to exploit for malicious purposes. As a consequence, the Commission's primary focus is on Huawei and ZTE.

26. The Commission notes, at the outset, that the Chinese government is highly centralized and exercises strong control over commercial entities, permitting the government, including state intelligence agencies, to demand that private communications sector entities cooperate with any governmental requests, which could involve revealing customer information, including network traffic information. The Department of Justice says that the Chinese government ''has subsidized [its] firms to lock up as much of the market as possible,'' which ''threatens to thwart the emergence of fair competition and lead to irreversible market dominance that will force all of us onto Chinese systems, causing unmitigable harm to our national security.'' According to Article 7 of the Chinese National Intelligence Law (NIL), all ''organizations and citizens shall, according to the law, provide support and assistance to and cooperate with the State intelligence work, and keep secret the State intelligence work that they know.'' Article 14 permits Chinese intelligence institutions to request that Chinese citizens and organizations provide necessary support, assistance, and cooperation. Article 17 allows Chinese intelligence agencies to take control of an organization's facilities, including communications equipment. The Chinese NIL is extremely broad, applying to Chinese citizens residing outside of China. Article 11 specifies that the law's powers are not limited to Chinese soil, which would permit Chinese government elements to compel Huawei and ZTE to carry out their directives within the United States' national boundaries. Further, Article 28 of the NIL allows personnel to be punished for violating the Chinese NIL. This broad authority to compel support and assistance to Chinese intelligence agencies is particularly troublesome, given the Chinese government's involvement in computer intrusions and attacks as well as economic espionage. As a consequence, the Commission's primary focus in the Report and Order is on Huawei and ZTE.

27. The Commission initially designates Huawei, along with its parents, affiliates, and subsidiaries, as a covered company for purposes of the Commission's rule.

28. The Commission finds that Huawei's ties to the Chinese government and military apparatus, along with Chinese laws obligating them to cooperate with any request by the Chinese government to use or access their system, pose a threat to the security of communications networks and the communications supply chain. Congress and the Executive Branch have repeatedly expressed concerns regarding Huawei, its ties to the Chinese government, and its equipment. In addition to reports recommending that government agencies, federal contractors, and private-sector entities consider excluding Huawei and ZTE equipment from their networks due to long-term security risks and the companies' close ties to the Chinese government, Congress has also taken action to limit the purchase of certain Huawei and ZTE equipment and services for federally funded networks. Additionally, the Department of Commerce has added Huawei to its Entity List, which ''identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States.'' These concerns center around Huawei's established relationship with the Chinese government as well as Huawei's obligation under Chinese law to cooperate with requests by the Chinese government for access to their system.

29. Although Huawei argues that its affiliates in the United States are not subject to state security laws, the Commission is not persuaded to excuse these affiliates from the scope of the Commission's prohibition. One expert has noted that the nature of the Chinese system ''recognizes no limits to government power.'' Irrespective of their physical location, these affiliates still remain subject to Chinese law.

30. As the House Permanent Select Committee on Intelligence found, ''the Chinese government and the Chinese Communist Party . . . can exert influence over the corporate boards and management of private sector companies, either formally through personnel choices, or in more subtle ways.'' For example, Huawei's founder, Ren Zhengfei, is himself believed to be a former director of the People's Liberation Army Information Engineering Academy, an organization associated with China's signals intelligence. Ren Zhengfei exercises ''ultimate veto authority over the company's material decisions.'' Additionally, the Chinese government maintains an internal Communist Party Committee within Huawei that can exert additional influence on the company's operations and decisions. The House Permanent Select Committee on Intelligence also received internal Huawei documentation from former Huawei employees ''showing that Huawei provides special network services to an entity the employee believes to be an elite cyber-warfare unit within the PLA.''

31. Moreover, analysts have found that while ''Huawei claims the Chinese state has no influence over its activities, . . . the company is treated as a state-owned enterprise and has benefited from state procurement funds, subsidized financing from state-owned policy banks and state funding for research.'' Huawei is reported to benefit from vast subsidies from the Chinese government, to include state-controlled

financial organizations. One study ''identified 32 cases since 2012 where Huawei projects were funded by Exim Bank of China ($2.8 billion) or China Development Bank ($7 billion).'' In 1998, it was reported that China Construction Bank provided over $470 million in lines of credit to foreign companies as incentive to purchase Huawei products. This initiative accounted for over 45% of the bank's annual extension of credit. While Huawei has refused to answer questions about its ownership and governance, it can be inferred that the Chinese government clearly has a vested interest in the company's success.

32. The Commission's actions in this document are also informed by the actions of other agencies and branches of the government, along with the increasing caution urged by our nation's intelligence officials. For example, in February 2018, the leaders of all six top U.S. intelligence agencies warned against purchasing products or services from Huawei or ZTE with FBI Director Chris Wray saying, ''the Commission is deeply concerned about the risks of allowing any company or entity that is beholden to foreign governments that don't share the Commission's values to gain positions of power inside our telecommunications networks that provides the capacity to exert pressure or control over the Commission's telecommunications infrastructure.'' The Department of Justice (DoJ) has also stated its ''strong[] support'' for the Commission's action in this document, noting that it is pursuing numerous criminal charges against Huawei for violations of federal law and ''a willingness to break U.S. law combined with a determination to avoid the consequences by obstructing justice argues against the reliability of the provider.''

33. In initially designating Huawei as a covered company, the Commission also relies on similar assessments by other countries. For example, on October 9, 2019, the European Union, with the support of the European Commission and the European Union Agency for Cybersecurity, released its risk assessment on 5G Security, specifically finding a high security risk where hostile countries exercise pressure on suppliers to facilitate cyberattacks serving their national interests. Many of our allies, including Australia, New Zealand, and Japan, have taken steps to exclude Huawei equipment from their networks. While Huawei argues that its equipment is used in other countries without undermining any nation's security, several of the United States' closest allies have concluded that the risk posed by Huawei equipment and systems is too great to bear. In November 2018, New Zealand's intelligence agency barred its largest telecommunications carrier, Sparc, from using Huawei equipment. Likewise, in December 2018, Japan excluded Huawei from its domestic communications infrastructure. Additionally, in August 2019, the Australian government announced a ban on Huawei equipment. The Commission also notes that communications service providers in other countries, including BT, Orange, and Deutsche Telekom, are acting to keep Huawei equipment out of their 5G networks.

34. Moreover, the Commission is confident that the national security risk to our communications network from permitting Huawei equipment and services is significant. For example, in 2019, Finite State, a cybersecurity firm, issued a report describing the unique threat posed by Huawei's ''high number'' of security vulnerabilities. The report found that over half of the Huawei firmware images analyzed had at least one potential backdoor that could allow an attacker with knowledge of the firmware to log into the device, and that Huawei continues to make firmware updates without addressing these vulnerabilities. Finite State articulates the concern that suppliers of technology, such as Huawei, with ''secret or overt access to the infrastructure they are providing,'' could use that access ''in times of peace, or perhaps [for] something far more ominous in times of conflict.''

35. Also in 2019, the United Kingdom's Huawei Cyber Security Evaluation Centre Oversight Board released a report that sounded the alarm about the risks associated with Huawei's engineering processes. The report further revealed that Huawei had made no substantive gains in the remediation of issues reported in the previous year, noting that, ''[a]t present, the Oversight Board has not yet seen anything to give it confidence in Huawei's capacity to successfully complete the elements of its transformation program that it has proposed as a means of addressing these underlying defects.'' Further, in a 2013 report, the Intelligence and Security Committee of the UK Parliament said, ''theoretically, the Chinese State may be able to exploit any vulnerability in Huawei's equipment in order to gain some access to the BT network, which would provide them with an attractive espionage opportunity.''

36. Furthermore, a recent report from Recorded Future, a cyber threat intelligence firm, found that ''[t]he enormous range of products and services offered by Huawei generates a nearly unimaginable amount of data for one company to possess.'' This problem is compounded by Huawei's ''desire to be an end-to-end provider for whole network solutions.'' As the *2012 HPSCI Report* found, when companies ''seek to control the market for sensitive equipment and infrastructure that could be used for spying and other malicious purposes, the lack of market diversity becomes a national concern for the United States and other countries.'' Huawei's desire to limit diversity in equipment poses a threat to the security of U.S. communications networks. Its access to this vast amount of data combined with its close ties to the Chinese government and its obligation under Chinese law to assist with Chinese intelligence-gathering mean that ''Huawei is potentially subjected to a government-driven obligation to capitalize on its global network and consumer devices ecosystem to fulfill core [Chinese government] national security and economic dominance objectives.'' Given the multitude of evidence about the threat that Huawei equipment presents, along with the company's unique and close relationship to the Chinese government, the Commission disagrees with Huawei's claim that there is no support for the conclusion that its equipment poses a threat. The fact that Huawei's subsidiaries act outside of China does not mean that their parent company lacks influence over their operations and decisions given the strong influence that Huawei's parent companies and the Chinese government can exert over their affiliates. The Commission additionally disagrees with Huawei's assertion that the Chinese NIL is irrelevant because it is merely a ''defensive measure'' that does not ''provide authority for Chinese intelligence agencies to engage in offensive intelligence activities.'' The broad nature of the Chinese NIL, along with the Chinese government's control over Huawei and history of espionage activities, presents far too great a risk to the security of U.S. communications networks to rely on the assurance that the Chinese government will act only in a vaguely-defined ''defensive'' manner. While the Commission recognizes that the Chinese NIL may be interpreted in different ways, the fact remains that entities such as Huawei that are subject to the NIL, and subject to the Chinese legal regime generally, pose too great a risk to the security of communications networks and the communications supply chain.

37. The Commission also disagrees with Huawei's criticisms of the Finite State report. Huawei argues that the Finite State report focused on old versions of Huawei's equipment and did not follow ''general practices'' of security testing, which it argues, ''typically involves dialogue between the security company and vendor'' about vulnerabilities. However, unlike a report that assesses a zero-day threat and would typically include dialogue with the vendor to provide time to mitigate the threat, Finite State's report was a general risk analysis report and was focused primarily on the culture of risk management at Huawei. In response to Huawei's public criticisms of its report, Finite State determined that, ''Based on 8 years of analysis of [UK Huawei Cyber Security Evaluation Centre] reports, along with the recent Finite States analysis, the Commission can clearly see that Huawei's security posture has not materially improved over time.'' Indeed, the Commission agrees with Finite State that ''Huawei cannot deny that, now, multiple organizations have independently found similar, substantial security vulnerabilities in their products.''

38. In the light of the record in the proceeding and other publicly available information detailing the scope of the risk of allowing Huawei's equipment and services into our communications networks, and given that the Chinese government has the ''means, opportunity, and motive to use telecommunications companies for malicious purposes,'' the Commission concludes that Huawei, its parents, affiliates, and subsidiaries should be initially designated as a national security threat to the integrity of communications networks or the communications supply chain for purposes of the rule the Commission adopts in this document.

39. The Commission also initially designates ZTE, its parents, affiliates, and subsidiaries as a covered company for purposes of the Commission's rule.

40. As with Huawei, ZTE has close ties to the Chinese military apparatus, having originated from the Ministry of Aerospace, a government agency. In fact, ZTE is still alleged to be partially owned by the Chinese government. As the House Permanent Select Committee on Intelligence found, ZTE is in essence, ''a hybrid serving both commercial and military needs.'' In particular, much of ZTE's ownership constitutes state owned enterprises, and, like Huawei, ZTE contains an internal Communist Party Committee, as required by the laws of China. The House Permanent Select Committee on Intelligence also found that ZTE has not allayed the Committee's concerns that it ''is aligned with Chinese military and intelligence activities or research institutes.'' As described in this document, legislative concern with ZTE equipment and services has been ongoing, with Congress passing, and the President signing into law, significant restrictions on the purchase and use of ZTE equipment.

41. Open source information highlights the risks posed by ZTE equipment. In April 2018, the Department of Defense announced that ZTE and Huawei devices would no longer be offered for sale at U.S. military bases and ordered them removed from its stores worldwide. In August 2018, a report funded by the Department of Homeland Security's Science and Technology Directorate found a wide range of vulnerabilities in a number of mobile devices manufactured and marketed by ZTE. The report indicated that the vulnerabilities are built into the phones during the manufacturing process and could allow malicious access to user data. While the USF generally does not fund end-user devices such as phones, the security concerns raised regarding ZTE mobile phones give the Commission concerns about other ZTE equipment and services, including those funded by the USF. The National Security Institute published a report in January 2019 that describes the underlying risks posed by both Huawei and ZTE systems and recommends ''additional restrictions on Huawei and ZTE products and services in the U.S.'' As with Huawei, ZTE's equipment has been barred in Australia and New Zealand.

42. Finally, the DoJ, in supporting the Commission's initial designations of Huawei and ZTE, has noted that ZTE pleaded guilty to violating our embargo on Iran by sending approximately $32 million dollars' worth of U.S. goods to Iran and obstructing justice in an effort to thwart DoJ's investigation. Such disregard for American law in furtherance of the interests of foreign governments is additional evidence of the danger posed by Huawei and ZTE equipment in our communications networks.

43. Given that the Chinese government has the ''means, opportunity, and motive to use telecommunications companies for malicious purposes,'' the Commission concludes that ZTE Corporation, its parents, affiliates, and subsidiaries should be initially designated as a national security threat to the integrity of communications networks or the communications supply chain for purposes of the rule the Commission adopts in this document.

44. The Commission directs the Public Safety and Homeland Security Bureau (PSHSB) to implement the next steps in the designation processes for Huawei and ZTE. The Commission also directs PSHSB going forward to make both initial and final designations, to reverse prior designations, and to issue the public notices required in the designation process. PSHSB shall have discretion to revise this process if appropriate to the circumstances, consistent with providing affected parties an opportunity to respond and with any need to act expeditiously in individual cases. To the extent that a designated entity seeks review of a designation decision—from either PSHSB or the full Commission—PSHSB or the Commission shall act on such petition for reconsideration or application for review, respectively, within 120 days of the filing by a designated entity. The Commission finds that this time limitation is important to provide regulatory certainty to entities affected by designations made at the Commission or bureau level, and consistent with the national security interests at stake. The Commission or PSHSB may, however, extend such 120-day deadline for good cause.

45. *Huawei and ZTE.* The designations adopted herein for Huawei and ZTE shall serve as initial designations. Interested parties may file comments responding to these initial designations. Such comments are due 30 days after publication of the Report and Order in the **Federal Register**. After the conclusion of the comment period, PSHSB shall issue a public notice announcing its final determination and the effective date of any final designation.

46. The Commission next establishes the scope of the new prohibition. The rule the Commission adopts in the Report and Order shall apply to any and all equipment or services, including software, produced or provided by a covered company. USF recipients must be able to affirmatively demonstrate that they have not used any funds obtained via the USF to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services provided or manufactured by a covered company.

47. The Commission finds it necessary to establish this broad prohibition on the use of USF funds to procure or otherwise support any and all equipment and services produced or provided by a covered company. Although some commenters argue that a

prohibition precluding the expenditure of USF funds on *every* product from a covered company would not advance any material security purpose, and that such a restriction would be overbroad with potentially negative repercussions for U.S. industry, both domestically and overseas, the Commission believes that a blanket prohibition best promotes national security, provides the most administrable rule, and eases compliance for USF recipients. Given the dynamic and wide-ranging nature of the potential threats to our networks, and the Commission's specific responsibility to protect against threats posed by USF-funded equipment and services, the Commission finds a complete prohibition on the expenditure of USF funds on any and all equipment and services from a covered company to be the only reliable protection against potential incursions. The Commission recognizes that a complete prohibition may impose attendant costs on providers, who must ensure that equipment or services obtained using USF funds do not use equipment or services produced or provided by a covered company, and the rural consumers served by these providers. However, the Commission finds that these costs are outweighed by the need to ensure that the services funded by USF are secure and by the benefits to our national security and the nation's communications networks.

48. Malware and vulnerabilities can be designed and built directly into communications equipment, even when that equipment is not the covered company's flagship equipment. Thus, these vulnerabilities can often be difficult to discover. Moreover, the transition to emerging next-generation networks and the accelerated adoption of virtualized distributed network infrastructure increases the number of attack points in the network and makes networks more susceptible to attacks and unauthorized intrusions. Given the increased risk that allowing any equipment from a covered company on the network can cause significant harm, the Commission cannot allow for bad actors to circumvent the Commission's prohibitions through clever engineering.

49. The Commission further finds that a complete prohibition on the expenditure of USF funds for all equipment and services produced or provided by a covered company will provide regulatory certainty and will be easier for providers to implement and for the Commission to enforce. The Commission agrees with Vermont Telephone, which argues that the Commission's rule ''would eliminate uncertainty and reduce regulatory burdens that fall most heavily on small operators,'' and that adopting the Commission's rule would ''level the competitive playing field by creating incentives for operators to secure their networks rather than opting to deploy lower-cost Chinese manufactured equipment.'' The Commission's decision to adopt a complete prohibition rather than a narrow one will greatly reduce administrative costs for both providers and consumers as it would be time consuming and costly to require determinations on a product-by-product basis as to whether any given equipment is subject to the prohibition. Relatedly, it will be simpler for participants, and thus more cost effective, to comply with a blanket ban on the use of USF funds on any and all equipment and services produced or provided by covered entities. Compliance costs will also be reduced because providers will more easily be able to certify that their subsidiaries and affiliates have not used USF funds to purchase, obtain, maintain, improve, modify, or otherwise support any equipment of a covered company. It would be far more difficult, costly, and invasive for the Commission to obligate providers to verify this same commitment on a product-by-product or even component-by-component basis. By the same token, it will be far simpler and more cost-effective for Universal Service Administrative Company (USAC) to audit and verify any such certification based on a blanket ban rather than a more selective product-by-product prohibition.

50. The Commission is not persuaded that uncertainty in the purchasing process dictates a narrower prohibition. Some commenters argue that it is difficult to know from which companies they are purchasing equipment and that a blanket prohibition within the USF is therefore unreasonable. They claim this difficulty is especially apparent in instances of ''white labeling,'' where a covered company provides equipment or services to a third-party entity for sale under that third party's brand and the purchaser may not know the covered company's equipment is part of the purchased product. Although the Commission understands the complications inherent in the purchasing process, it believes it is the responsibility of all USF recipients to work with their suppliers to understand what equipment and services they are purchasing and to ensure that such equipment and services are not produced or provided by a covered company. Indeed, were the Commission to find white labeling as outside the scope of its prohibition, it would create an obvious and transparent loophole for companies that pose a national to national security to sneak their equipment into our communications networks.

51. The Commission also makes clear that USF recipients may continue to use these federal funds to maintain, improve, modify, or otherwise support their communications networks generally so long as no such funding goes toward any equipment or services provided or manufactured by a covered company. For example, a USF recipient could use funding to maintain gas-powered generators or battery cells that provide back-up power to radio access network equipment, purchase backhaul facilities and interconnection services from third parties, upgrade and maintain switches and routers, and otherwise expend USF funds on equipment and services that support a provider's network in whole or in part and are not solely used in the maintenance or support of covered equipment. In contrast, a USF recipient could not use federal funds to upgrade covered equipment, install software updates on such equipment, or pay for a maintenance contract to the extent that contract covers covered equipment—even when such upgrades, installations, and contracts are not directly offered by a covered company. Similarly, a USF recipient would not be permitted to use USF support to pay its internal staff to perform maintenance on any equipment or services produced or provided by a covered company. Such expenditures would be directly and solely targeted at supporting equipment that poses a national security threat to our communications networks and allowing such expenditures to be paid for with federal funds would counter the Commission's goal of securing American communications networks and incentivizing the replacement of such equipment with equipment from trusted vendors.

52. The Commission notes that its rule does not prohibit USF recipients from using their own funds to purchase or obtain equipment or services from covered companies, but USF recipients must be able to clearly demonstrate that no USF funds were used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by a covered entity. But the Commission cautions USF recipients that choose to install new equipment or purchase new services from covered companies. Where a project involves the purchase of such equipment, the Commission believes it unlikely that many USF

recipients will be able to show the detailed records necessary to demonstrate that no USF funds were used on equipment or services from a covered company on any part of that project. For example, if a USF recipient tried to install a new cellular radio base station from a company that has been designated as a national security threat, all labor and other expenditures for that installation are part and parcel of installing an insecure network. The Commission is thus skeptical that any USF recipient seeking to use USF funds on an ''eligible'' portion of such a project would will be able to establish with the necessary certainty, even with a detailed recordkeeping process in place, that no part of the installation process, including the base station and any and all related expenditures, are paid for using USF funds. However, the Commission does not entirely foreclose the possibility that a USF recipient might be able to segregate the use of federal funds from other funds for the completion of a particular project, and the Commission reminds recipients that such expenditures will be subject to the audit and enforcement mechanisms described herein.

53. The Commission agrees with commenters who suggest a whole-of-government approach to supply chain security. The Commission's oversight of the USF requires them to act so that USF funds are not used in a manner that undermines the security of communications networks. In addition, the Commission has a responsibility to act in order to support the ongoing efforts of the federal government to protect communications networks and the communications supply chain from security threats. The prohibition the Commission adopts in this document applies only to equipment and services in the context of the USF, so the Commission believes this limited application of the prohibition will advance the interests of network security and will provide necessary certainty to affected USF participants. In short, the Commission's actions in the Report and Order *are* a vital part of that approach and will complement the activities of other federal agencies and Congress.

54. The Commission disagrees with RWA, which contends that the prohibition it adopts in this document should extend only to ''additional equipment'' and ''new services'' not yet procured and deployed; such a distinction would do nothing to address the threat posed by existing equipment. If anything, it would magnify this risk by enabling providers to continue to use USF support to maintain, improve, modify, operate, manage, renew, or otherwise support such equipment. Restricting the prohibition the Commission adopts in this document to apply only to equipment that has not yet been purchased would not only undercut the purpose behind this proscription, but could actively increase the risks posed by existing equipment.

55. The Commission acknowledges the concerns of some commenters who contend that ''rural co-ops and closely held companies are massively restricted in their financial operations'' and argue that USF support is ''often critical'' in order to maintain the operational viability of their networks. While this may be true in the case of some rural carriers, the Commission is unwilling to allow USF dollars to be used in support of equipment and services that pose a direct and immediate threat to our national security and the security of our networks. To do so would place our communications networks and supply chains as a whole at risk. No provider has yet offered the detailed financial records that would be necessary for the Commission to determine whether an individual provider actually could not maintain its existing network without violating its rule—and the Commission reminds providers that they remain free to seek a waiver of this prohibition in the exceptional case where they would be unable to operate their networks absent the use of USF funds to maintain or otherwise support equipment or services produced or provided by covered companies.

56. While the rule the Commission adopts in this document will not, in and of itself, completely address the risks posed by equipment or services produced or provided by covered companies, that is no reason not to adopt the rule, as RWA appears to argue. As the Commission has already stated, the targeted rule it adopts in this document is part of the Commission's continuing efforts to protect the nation's communications networks and supply chain from potential security threats. These efforts are, by their very nature, ongoing and incremental. The Commission's is a specific but nevertheless important role in securing the communications supply chain and our nation's communications infrastructure.

57. *Upgrades to Existing Equipment.* The Commission next clarifies that the prohibition will apply to upgrades and maintenance of existing equipment and services. As explained in this document, this restriction includes a prohibition on using USF funds to pay third parties or a carrier's own employees to maintain or repair equipment from covered services. Costs for such services must be paid with non-USF funds. The rule the Commission adopts in this document prohibits USF recipients from using USF funds to purchase, obtain, maintain, improve, modify, or otherwise support equipment or services provided or produced by covered companies in addition to purchasing such equipment or services. The Commission specifically extends this prohibition to include upgrades to existing equipment and services. Several commenters have argued that upgrades to existing equipment should be exempt from the Commission's rule, claiming any prohibition on the use of USF funds to support upgrades to existing equipment would ''effectively mandate replacement of those products before the end of their life-cycle or force companies receiving USF monies to run outdated or inadequately maintained equipment.'' Others argue that such upgrades should be exempted because they are necessary to preserve equipment functionality, performance, and security.

58. The Commission recognizes that this rule may encourage some providers to choose not to upgrade equipment and instead to replace these products prior to the end of their life-cycle, or risk running outdated and inadequately maintained equipment. The Commission notes that such upgrades are in fact in the public interest because they would increase the security of our communications networks. Indeed, the Commission finds the risk posed by covered companies' products is too great to continue to allow federal funds to be used to purchase, obtain, maintain, improve, modify, or otherwise support them. To do so would allow these funds to be used to perpetuate existing security risks to the communications supply chain and the communications networks of this country. Further, the Commission is not restricting USF recipients from performing needed upgrades or maintenance to equipment procured from a covered company so long as they do not use USF funds to do so. Although the Commission may have concerns, it acknowledges that providers may continue to use and improve such equipment consistent with all other legal requirements, but they may not perform such maintenance or upgrades using USF funds. Affected carriers may of course file a request for waiver if they are manifestly unable to maintain their networks absent the use of USF funds to support equipment or services produced or provided by covered companies, and such failure poses a risk to public safety. The

Commission evaluates waivers on a fact-specific basis.

59. *Compliance Certifications.* The Commission agrees with commenters who argue that the Commission should require recipients of universal service support to provide a certification that they have complied with the rule it adopts in this document. The Commission does not, at this time, require manufacturers to submit separate certifications, although USF recipients may require such certifications from manufacturers as part of their own contracts. The Commission directs WCB, in coordination with USAC, to revise the relevant information collections for each of the four USF programs to require a certification attesting to compliance with the rule adopted in this document. Given the variety of ways that USF participants file and certify to rule compliance, the Commission finds that directing WCB to develop such a certification for each respective program is the best means by which to implement this new certification requirement.

60. *Audits and Recovery of Funds.* The Commission believes that USAC audits are the most effective way to determine compliance with the requirements of the Report and Order, and the Commission directs USAC to implement audit procedures for each program consistent with the rules it adopts in this document. USF recipients must be able to affirmatively demonstrate that no universal service funds were used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services provided or manufactured by covered companies. The Commission notes that applicants in the E-rate and Rural Health Care programs already retain and provide information either during the application process or during audit and program integrity assurance processes that could demonstrate (if verified) that no USF funds were improperly used. And the Commission notes that many ETCs receiving High Cost funding now report the projects they complete using federal funds to the High Cost Universal Broadband portal, allowing relatively swift verification by USAC of compliance. If USAC knows the specific locations where federal funds were used to build communications networks, it can verify what equipment and services are used at those locations and audit that usage if necessary. To the extent that other ETCs do not yet report information to USAC that would verify compliance, the Commission directs WCB and USAC to revise its information collection and audit procedures to ensure the reporting of USF expenditures in a manner that will allow efficient oversight and thorough compliance.

61. Some commenters have argued that, for purposes of the E-Rate and Rural Health Care programs, service providers are in the best position to prevent violations of the rule and, as a result, should be the party responsible for recovery in cases where funds have been disbursed in violation of the rule. The Commission sees no reason to depart from the requirement that directs USAC to pursue recovery actions against the party or parties that committed the rule or statutory violation in question, recognizing that, in some instances, this could be the applicant school, library, health care provider, or consortium, rather than the service provider. The determination of which entity to seek recovery from is a factual determination based on the specific facts of the violation, and the Commission sees no need to establish a rule requiring recovery only from service providers.

62. *Waivers.* The Commission agrees with commenters who support a meaningful waiver process. As with any Commission rule, USF recipients may seek waivers of the rule the Commission establishes in this document. The Commission disagrees with commenters who suggest that it imposes a 90-day shot clock for resolution of such waivers. Commenters have provided no persuasive argument supporting the establishment of an arbitrary deadline for resolution of waiver requests and the Commission similarly refrains from establishing any specialized waiver requirements for the rule adopted in this document.

63. Because of the compelling interest in protecting our national security, the Commission concludes that the rule it adopts in this document should take effect immediately upon publication in the **Federal Register**. For purposes of the Lifeline and High-Cost Support Programs, any prohibition on the use of USF funds will take effect immediately upon publication of the effective date contained in the Final Designation Notice designating an entity as a covered company posing a national security threat. A requirement that USF recipients certify that they are in compliance with the Commission's rule will take effect following revision of each information collection as described in this document, including approval by the Office of Management and Budget under the Paperwork Reduction Act.

64. In the April 2018 *Protecting Against National Security Threats Notice,* the Commission made clear that its proposed rule would apply only prospectively. The Commission sought comment on how long USF recipients would need to comply with the rule and whether it should consider phasing in the rule for certain programs or USF recipients. The Commission agrees with commenters who argue that the Commission should not delay the effective date of the rule. These commenters contend that service providers have long been aware of the security risks associated with certain vendors that may affect their ability to continue to receive federal funding, and thus many service providers have already made the business decision to purchase equipment from alternative vendors, precisely to avoid the security risks and the possible greater costs those risks might present in the long run. Given the important national security concerns at stake in the proceeding, the Commission believes it is critical that it moves forward expeditiously. Moreover, because many service providers have already made the business decision to purchase equipment from alternative vendors in order to avoid security risks, the Commission believes that the impact of an immediate effective date will be minimal. Given the industry's long-standing knowledge of the risks posed by the installation and purchase of such equipment, the Commission does not believe that a phase-in period is necessary. Indeed, the important national security concerns at issue necessitate swift action.

65. Moreover, because the rule is prospective in effect, it does not prohibit the use of existing services or equipment already deployed or in use. USF recipients may continue to use equipment or services provided or produced by covered companies obtained prior to the issuance of the rule, but *may not* use USF funds to purchase, obtain, maintain, improve, modify, or otherwise support such equipment or services in any way.

66. The Commission next clarifies how its rule shall apply for E-Rate and Rural Health Care recipients. Specifically, unlike other USF recipients, E-Rate and Rural Health Care recipients apply for funding to cover specific services and equipment on coordinated basis, with funding tied to a particular funding year. To ensure prospective only effect, the rule the Commission adopts will apply to all funding years that start after the designation of a covered company (so the Commission would expect the rule prohibiting purchases from Huawei and ZTE that it initially designates in this document to apply for Funding Year 2020, starting July 1, 2020). This

provides a common administrative deadline for applicants and USAC and should allow sufficient time for E-Rate and Rural Health Care applicants to be trained to include service provider security compliance as a necessary factor in the selection of providers for the forthcoming funding year. The Commission notes that Funding Year 2020 for both programs begins July 1, 2020. The Commission believes that the decision strikes the best balance for promoting national security in a way that is practicable for E-Rate and Rural Health Care participants. For earlier funding years, the Commission directs USAC to process Operational Service Provider Identification Number (SPIN) changes and service substitutions to swap out non-compliant equipment for compliant equipment upon a showing that the equipment not yet installed would be prohibited under the Commission's rule.

67. *Existing Multiyear Contracts.* The Commission finds that its rule extends to existing contracts to acquire equipment or services from any covered company that were negotiated and entered into prior to the final designation of that entity as a covered company. In other words, existing multiyear contracts to acquire equipment or services from a covered company will not be exempt from the rule. The Commission disagrees with commenters who favor such an exemption. Exempting existing multiyear contracts would negate the purpose behind the Commission's rule and allow federal funds to be used to perpetuate existing security risks to communications networks and the communications supply chain.

68. Some commenters raise a number of constitutional challenges to the rule the Commission adopts in this document. They argue that the action adopted in this document, violates principles of due process, that it amounts to an unconstitutional bill of attainder, and that it amounts to a regulatory taking by denying carriers any economically productive use of their existing networks. The Commission finds these arguments unpersuasive.

69. Both carriers and suppliers argue that a national security condition on USF funding would violate their due process rights guaranteed by the Fifth Amendment. The Due Process Clause of the Fifth Amendment provides that ''[n]o person shall be . . . deprived of life, liberty, or property, without due process of law.'' These due process challenges, therefore, involve two questions: First, whether carriers or suppliers are deprived of a protected interest in ''property'' or ''liberty.'' And second, if they are, whether the procedures employed by the Commission comport with principles of due process. The Commission concludes that the rule and its application, as adopted in this document and applied initially to Huawei and ZTE, do not violate the due process rights of USF recipients, of suppliers generally, or of Huawei and ZTE specifically. The Commission discusses these conclusions in the following.

70. *Carriers' Due Process Claims.* CCA, on behalf of its carrier members, argues that the rule will violate the due process rights of carriers that rely on USF support in two ways. First, CCA asserts, the rule will interfere with carriers' ''long-standing investment-backed reliance interests'' in their telecommunications networks. Second, CCA claims that the rule ''violates the due process rights of equipment, device and service providers, as well as the carriers who rely on them'' by failing to provide ''an opportunity to review the unclassified evidence on which the official actor relied.'' Because this second argument primarily concerns the due process rights of suppliers and is also raised by them in more detail, the Commission addresses it—along with suppliers' other concerns—in the following.

71. Regarding its first argument, CCA explains that many carriers have upgraded or are upgrading their networks to the newest available technologies, including by contracting with foreign suppliers who offer competitive pricing, in service of ''the USF's mandate to provide affordable telecommunications access to underserved communities.'' Invoking *FCC* v. *Fox Television Stations,* CCA argues that these carriers ''did not have fair notice of what would be forbidden,'' and invoking *General Motors Corp.* v. *Romein,* CCA asserts that the proposed rule ''unfairly interferes with carriers' legitimate expectations without sufficient justification.''

72. In *Romein,* General Motors challenged the effect of a Michigan workers' compensation statute that required it to retroactively pay workers' compensation benefits. General Motors argued that the statute's retroactive provisions ''unreasonably interfered with closed transactions,'' and thereby violated due process. Applying rational basis review, the Court rejected this challenge and found that the statute was a rational means of achieving a legitimate objective. Huawei similarly argues that the rule the Commission adopts in this document would violate the Administrative Procedure Act as a rule that has ''unreasonable secondary retroactivity.'' While the Commission acknowledges that the rule may have some retroactive effect, the Commission finds that any retroactive effect is reasonable in light of the goals of the Report and Order. Secondary retroactivity is reviewed under a reasonableness standard to determine whether or not it is arbitrary or capricious. The Commission notes that the rule and the initial designation of Huawei and ZTE as covered companies will not explicitly prevent Huawei from selling its products to any company. And as noted, the Commission concludes that multiyear contracts cannot be exempt from the rule, given that such an exemption would largely undermine the national security goals of the Report and Order.

73. At the outset, at least with respect to Huawei and ZTE, the Commission rejects the premise that carriers had a ''legitimate expectation'' of being able to continue to purchase products and services from them using USF funds and ''did not have fair notice'' that a rule like the one adopted in this document may be imposed. Mounting public concern about these entities was apparent at least as early as 2010, when a bipartisan group of lawmakers wrote a letter to the Chairman of the FCC, requesting information about the security of U.S. telecommunications networks in light of potential deals between U.S. carriers and Huawei and ZTE.

74. Moreover, CCA's reliance on *Fox Television* is misplaced. That case addressed whether the FCC had violated the due process rights of two television networks by failing to give them fair notice that, in contrast to a prior FCC policy, a fleeting expletive or a fleeting shot of nudity could be actionably indecent. Here, by contrast, the Commission has issued a *Notice* and allowed interested parties to comment on the proposed rule, which will only be applied prospectively and does not require carriers to remove or stop using any already-purchased equipment or services. This situation is materially different than that presented in *Fox Television,* and at least one court has rejected an attempt to invoke *Fox Television* under similar circumstances, where parties were given notice and an opportunity to comment on the proposed rule. Finally, the Commission disagrees with CCA's apparent assertion that it has not provided ''sufficient justification'' to satisfy the test for rational basis review articulated in *General Motors.* The government has a legitimate interest in safeguarding

national security, and the Commission's rule is a rational means of furthering that interest.

75. *Suppliers' Due Process Claims.* Some commenters—including Huawei—argue that due process requires that the rule offer suppliers designated as national security threats notice and a meaningful opportunity to respond to the evidence against them. Assuming that a designation could result in a deprivation of a cognizable liberty or property interest, an argument which the Commission considers and rejects in the following, the Commission has provided and will continue to provide due process as required under the Constitution and process in conformance with the Administrative Procedure Act. Under *Mathews* v. *Eldridge* and other applicable precedent, due process requires that the deprived party be afforded notice of the action, including enough information about the factual basis for the action to allow for a meaningful challenge, and a meaningful opportunity to be heard. An evaluation of the sufficiency of the process will consider the private interest that would be affected, the risk of an erroneous deprivation of such interest through the procedures used (and the probable value, if any, of additional procedural safeguards), and the government's interest, including the burdens of additional procedural requirements.

76. The rulemaking proceeding has provided and will continue to provide Huawei and ZTE with notice and an opportunity to be heard on the issue of whether they should be designated under the rule adopted in the Report and Order. The *Protecting Against National Security Threats Notice* in the proceeding set forth Congress's concern with both companies and explained that this concern stems from the fact that both companies are subject to such a degree of undue influence by the Chinese government as to raise counterintelligence and security concerns. It was clear from the *Protecting Against National Security Threats Notice* that the Commission was considering designating them under the proposed rule. In fact, the *Protecting Against National Security Threats Notice* specifically sought comment on ''defin[ing] covered companies as those specifically barred by the National Defense Authorization Act from providing a substantial or essential component, or critical technology, of any system, to any federal agency or component thereof,'' and the WCB specifically sought comment on how the 2019 NDAA should affect the Commission's approach in the proceeding. Huawei responded to the *Protecting Against National Security Threats Notice* at great length, and the Commission has fully considered those arguments. As with any Commission decision, the Report and Order is subject to procedures for reconsideration by the Commission and for judicial review.

77. Further, both Huawei and ZTE will have an additional opportunity to respond to the factual allegations supporting their initial designation under the process established in the Report and Order. The initial determination adopted in the Report and Order expands on the concerns raised in the *Protecting Against National Security Threats Notice* and responds to Huawei's submissions that attempted to address these concerns. Huawei and ZTE will have a further chance to respond before PSHSB issues a final designation that either affirms or rejects the initial designation. The Commission therefore concludes that Huawei and ZTE will be afforded all the process that is due in the proceeding.

78. For all other designations, the Commission will adhere to the process discussed in this document, which includes notice and an opportunity to comment on any initial designation, a description of the basis for such initial designation and, if opposed, a written final determination subject to review by the Commission and, ultimately, the courts. Any such designation will also be subject to review, and potentially reversal, in the future if such an entity, or another interested entity, can demonstrate that it should no longer bear such a designation.

79. Huawei is incorrect when it argues that it violates the Due Process Clause to issue this adjudicatory decision in the context of a rulemaking proceeding. There is no requirement that designations be made pursuant to the formal adjudicatory procedures of the Administrative Procedure Act. Rather, the relevant question is whether the affected parties have had the ''opportunity to present, at least in written form, such evidence as those entities may be able to produce to rebut the administrative record.'' Huawei has already done so here, and ZTE had the same opportunity. There is nothing improper about issuing a designation pursuant to a rulemaking proceeding. Additionally, Huawei and ZTE will have a further opportunity to specifically respond to their initial designation during the comment period adopted in the Report and Order.

80. Moreover, the Fifth Amendment guarantees due process only where government action threatens or deprives an individual of life, liberty, or property. The Commission finds that designated suppliers and/or carriers do not suffer a deprivation of life, liberty, or property sufficient to trigger due process protections. Huawei claims that designating it under the rule the Commission adopts in this document would deprive it of liberty in three related ways: (1) By interfering with its freedom to practice a chosen profession; (2) by debarring it or effectively debarring it by preventing it from selling equipment and services to USF recipients; and (3) by imposing a ''stigma'' sufficiently serious to alter Huawei's legal status. The Commission finds none of these arguments persuasive.

81. First, covered companies are not barred from a field of employment. Unlike the aggrieved parties in the cases cited by Huawei and CCA, the suppliers found to be a threat to national security will not be broadly excluded from a profession or field—such as aeronautics or law. To the contrary, any such designated suppliers will be free to pursue their business by serving as suppliers to a variety of carriers; in fact, as one commenter pointed out, a designation would not formally restrict them from conducting business with *any* customer, including those who participate in USF programs.

82. Second, the adopted rule does not debar covered companies, either through ''formal debarment'' or through ''broad preclusion, equivalent in every practical sense to formal debarment.'' Huawei itself recognizes an uneasy fit with the debarment cases it cites, conceding that those cases ''merely involve actions that preclude private entities from transacting with the Government, while the proposed rule would preclude private entities from transacting with other private entities who spend federal funds.'' Huawei argues, *inter alia,* that the proposed rule meets the definition of debarment in section 54.8 of the Commission's rules. Even assuming Huawei is ''debarred'' from the USF under this definition, it is not ''debarred'' as the term is used in the cases cited by Huawei, which, as Huawei itself notes, involve government actions precluding private entities from serving the government. The Commission is similarly unconvinced by Huawei's attempt to analogize itself to a subcontractor. While there is some authority for the proposition that due process protections extend to the debarment of subcontractors, Huawei and other affected suppliers are not subcontractors, and, even if they were, designation here does amount to *de facto* debarment—it does not prevent

designated suppliers from doing business with the government or carriers (the prime contractors, in Huawei's analogy).

83. The rule here does not prevent any private entity from transacting with the government—either formally or through broad preclusion equivalent to formal debarment—nor does it completely prevent entities from transacting with carriers who receive USF funding.

84. Third, designation as a covered company does not create a deprivation by imposing a stigma sufficiently serious to alter a supplier's legal status. To establish a deprivation under this ''stigma-plus'' theory, a party must show (1) the public disclosure of a stigmatizing claim by the government; and (2) an accompanying denial of ''some more tangible interest such as employment, or the alteration of a right or status recognized by state law.'' With respect to the first prong, assuming *arguendo* that designation by the Commission as a threat to national security is likely to impose some amount of stigma, the stigmatized party must also satisfy the ''plus'' factor of the ''stigma plus'' test. Courts have found this factor satisfied where the government has deprived a party of some benefit to which it has a legal right, like the ability to purchase alcohol or fly. The D.C. Circuit has found this prong satisfied where the government-imposed stigma is so severe that it ''broadly precludes'' the stigmatized party from ''pursuing a chosen trade or business.'' The Commission finds that the rule adopted in this document does not satisfy this prong.

85. Huawei argues that the alleged stigma of a designation under the proposed rule would alter its status in two ways. First, by ''barring the use of universal service funds to buy the company's equipment.'' Second, by having the practical effect of discouraging other U.S. entities from buying Huawei's equipment. But while designation may create a disincentive for carriers to purchase equipment from designated entities, designation imposes no explicit restriction on designated entities at all; designated entities remain free to sell to anyone, including recipients of USF. Likewise, USF recipients remain free to purchase equipment from designated entities—and some may continue to do so, though they would not be able to use USF support for any covered equipment and services. This fact alone would prevent Huawei or other covered companies from establishing the deprivation of a legal right or the ''broad preclusion'' required in *Trifax,* the case on which Huawei principally relies in establishing this factor. Thus, the Commission concludes that there is no cognizable deprivation of liberty or property either in adopting the rule or designating Huawei and ZTE herein the Report and Order.

86. *Unconstitutional Taking.* Some commenters assert that the Commission's proposed rule would constitute a regulatory taking because it would deny some carriers of ''all economically beneficial or productive use'' of their property.'' These commenters argue that the proposed rule would prevent carriers from upgrading, repairing, or servicing pre-existing equipment purchased from prohibited suppliers, rendering this equipment useless. Without funding to compensate carriers for these losses, they argue, the proposed rule will run afoul of the Takings Clause of the Fifth Amendment, which prohibits the government from taking ''private property . . . for public use, without just compensation.''

87. The Commission disagrees with these arguments. At the outset, the Takings Clause applies only when ''property'' is taken, but Commission and judicial precedent make clear that carriers have no vested property interest in ongoing USF support. Therefore, there is no merit to any suggestion that deprivation of future USF support amounts to a Takings under the Fifth Amendment. While carriers do have a cognizable property interest in their equipment, to the extent the action diminishes the value of equipment carriers have already purchased, this interference does not amount to a regulatory taking. The concurrently adopted Further Notice addresses making additional support available pursuant to NDAA section 889(b)(2)—a fact that arguably mitigates any takings concerns and makes any potential takings claim unripe. Further, there is no *per se* regulatory taking under *Lucas* v. *South Carolina Coastal Council,* because the rule will not deprive affected carriers of all economic value in their networks or equipment—the proposed rule is prospective in nature, and will allow them to continue using pre-existing equipment. Nor does the rule effect a partial regulatory taking under the three-factor test established in *Penn Central Transportation Company* v. *New York City.* First, the economic impact on affected carriers should not be severe, as they should still be able to use pre-existing equipment. Second, the rule should not upend reasonable investment-backed expectations. As explained in this document, the long history of concern about Huawei and ZTE should have served as a warning that the federal government may take action regarding these companies, and in any event the *Protecting Against National Security Threats Notice* provided affected carriers actual notice of this action. More broadly, the Commission frequently enacts rules adjusting the levels of USF support received by carriers, and has long held that carriers have no entitlement to ongoing USF support at current levels. Third and finally, with respect to the ''character'' of the Commission's action, any interference could not be characterized as physically invading or permanently appropriating the property of carriers—and commenters seem to offer no argument to the contrary.

88. *Bill of Attainder.* Lastly, Huawei argues that the rule violates the Bill of Attainder Clause. A law constitutes a bill of attainder ''if it (1) applies with specificity, and (2) imposes punishment.'' According to the Supreme Court, ''the Bill of Attainder Clause was intended . . . as an implementation of the separation of powers, a general safeguard against legislative exercise of the judicial function, or, more simply, trial by legislature.'' Thus, ''[a] bill of attainder is a legislative act which inflicts punishment without a judicial trial.'' Huawei argues that the rule ''contravene[s] the Bill of Attainder Clause by targeting a small group of people for punitive measures.''

89. The Commission finds this argument unpersuasive. First, the Supreme Court has never applied the Bill of Attainder Clause to a corporation like Huawei. Second, the rule cannot amount to a bill of attainder because it is not a ''legislative act.'' The Commission is unaware of any court opinion applying the Bill of Attainder clause to agency regulations. In a case challenging the Commission's 2011 order overhauling the high-cost universal service program, the Tenth Circuit considered and rejected a similar argument on the grounds that the Commission's order was not a legislative act. Second, even if the rule were a ''legislative act,'' it does not impose a ''punishment.'' As the Report and Order makes clear, the Commission has a legitimate, non-punitive reason to take the actions contemplated by the rule—the protection of national security. While some of the burdens of the rule will fall on those entities identified as threats to national security, the burdens imposed will not be ''so disproportionately severe and so inappropriate to nonpunitive ends that they unquestionably have been held to

fall within the proscription of [the Bill of Attainder Clause].''

90. The Commission's cost benefit analysis focuses on the economic costs of its action. An economic cost is the extent to which resources are spent inefficiently, in this case, on more expensive suppliers. The Commission notes that record evidence indicates the vast majority of such costs are attributable to ETCs receiving high-cost universal service support. The Commission accordingly focuses its analysis on such costs because any costs attributable to other programs are unlikely to have any measurable impact on whether the benefits of the rule outweigh its costs. Furthermore, the records suggest that the dominant economic cost equals the necessary additional cost to carriers who choose to purchase more expensive equipment as a result of the Commission's action. The Commission estimates this cost and qualitatively consider other economic costs of its action. The Commission finds these other costs to be relatively small. Given the evidence available, the Commission estimates that the costs of the actions in this document will not exceed $960 million and are likely to be much lower.

91. Quantifying the expected benefits of the Commission's rule is difficult. Nonetheless, the Commission takes into account several comparable situations to estimate an order of magnitude lower bound of benefits. Notably, a foreign adversary's access to American communications networks could result in hostile actions to disrupt and surveil our communications networks, impacting our nation's economy generally and online commerce specifically, and result in the breach of confidential data. To start, our national gross domestic product was $20.5 trillion last year, growing 2.9% or $595 billion last year, adjusting for inflation. Accordingly, preventing even a 0.005% disruption to our economy, or a 0.162% disruption to annual growth, would outweigh the costs of the prohibition. Likewise, the digital economy accounted for $1.35 trillion of our economy in 2017, and so preventing a disruption of even 0.072% would mean the benefits of the rule outweigh the costs. Given how dependent the general economy—let alone the digital economy—is on our national communications network and how interconnected that network is and is becoming, the Commission finds it likely that any potential disruption would exceed these measures by a large margin. As a check on the Commission's analysis, consider the impact of existing malicious cyber activity on the U.S. economy: $57 billion to $109 billion in 2016. Given the incentives and documented actions of hostile nation-state actors, reducing this activity (or preventing an expansion of such damage) by even 1.68% would justify the costs of the Commission's rule. Or set aside broader commercial implications (such as theft of trade secrets and business plans) and focus on the impact of data breaches on consumers: An estimated 7% of consumers over the age of 16 were identity theft victims in 2014, and the estimated average loss to an identity theft victim is over $2,800. Accordingly, if the Commission's rule reduced the incidence of data breach and identity theft by just 0.137% among American consumers over the age of 16, the benefits of the rule would outweigh the costs. In the Commission's judgment and given this analysis, the Commission finds the benefits of its rule to the American economy, commerce, and consumers are likely to significantly and substantially outweigh the costs by a large margin (the upper end of those costs being $960 million). Finally, the Commission notes that the benefits of the rule also extend to even harder to quantify values, such as preventing untrustworthy elements in the communications network from impacting our nation's defense, public safety, and homeland security operations, our military readiness, and our critical infrastructure, let alone the collateral damage such as loss of life that may occur with any mass disruption to our nation's communications networks. The Commission finds that the benefits of safeguarding our nation against these threats alone would also significantly and substantially outweigh the costs of the Commission's rule by a large margin.

92. *Calculating the Additional Cost to Carriers.* The Commission assumes based on the initial designations that its actions will prevent a carrier from using universal service funds to make purchases from Huawei or ZTE. As carriers maintain their existing networks and upgrade them to new technologies such as 5G, carriers relying on universal service funds may choose more expensive equipment—and for the sake of this cost-benefit analysis, the Commission assumes that the prices of Huawei and ZTE tend to be lower than those of other suppliers without a corresponding loss in quality, reliability, or durability. Buying more expensive equipment or services also increases the value of the firm's capital base, which in turn, increases service and maintenance costs, and the required return on capital to bondholders and shareholders, resulting in a second source of cost. The Commission also estimates a useful lifetime of network equipment (like mobile switches) and exterior equipment (radio network access equipment (RAN) placed on or near a pole or tower) of approximately 10 years.

93. To estimate the additional cost to carriers of the prohibition and given the estimated useful lifetime of network equipment, the Commission expects that in 10 years all Huawei and ZTE equipment that will be replaced (or upgraded) with universal service support will have been replaced. At that point, the additional annual capital outlays will peak, and the Commission generously estimates the total annual cost of its actions, including service and maintenance cost, and the required return on capital, will be between approximately $17 million and $107 million. Although the Commission initially assumes Huawei and ZTE maintain their (non-quality-adjusted) price advantage for 10 years, the Commission then allows competition to linearly eliminate that advantage over the next ten years. On that basis, the Commission estimates the present value of the cost this will impose on carriers to range from $160 million and $960 million.

94. The analysis assumes constant real equipment prices. While real equipment prices will likely decline, it is the difference between the prices of alternatives to Huawei and ZTE equipment and the prices of Huawei and ZTE equipment that determines the reimbursement cost. While lower real prices would increase demand, they would also reduce the extent to which reimbursements from the Fund are necessary, the net effect of which is likely to be small relative to the error inherent in the Commission's estimates.

95. In developing these estimates, the Commission first estimates the cost of replacing Huawei and ZTE equipment, and then estimate ongoing expenses. Since the Commission's Report and Order does not mandate replacement, the Commission does not assume that all Huawei and ZTE equipment is replaced by alternative equipment. Instead, the Commission expects that a fraction of the Huawei and ZTE equipment will be replaced. The Commission then estimates the ongoing expenses implied by the assumed replacements. However, the sum of the estimated replacement and ongoing costs is not entirely attributable to the Commission's action. Instead, it is the difference between these costs and the

costs that would have been incurred if Huawei and ZTE equipment were used. The Commission estimates this difference using reported differences between the prices of Huawei and ZTE equipment and the prices of alternative equipment (again, setting aside for these purposes concerns about the lower quality, reliability, or durability of such lower-priced equipment).

96. The Commission estimates the average cost for a firm to replace its Huawei and ZTE equipment, excluding ongoing expenses, to range from $40 million to $45 million. The Commission then multiplies this by an estimate of the number of firms that have Huawei or ZTE equipment and relies on universal service support, and then reduces it to account for the extent to which carriers will use other sources of capital to purchase and maintain Huawei and ZTE equipment. The result is an estimate of the cost of replacing Huawei and ZTE equipment, excluding ongoing expenses.

97. Seven carriers reported their estimated cost of replacing installed Huawei or ZTE equipment. The estimates come from Pine Belt Cellular, Sagebrush, Union Telephone Company, NE Colorado Cellular, SI Wireless, United TelCom, and James Valley Telecommunications. The median of the firms' replacement cost estimates is $50 million.

98. To guard against distortion due to extreme estimates, particularly given carriers' incentives to report higher estimates, the Commission prefers the median to the mean. The mean of the 7 reports, $94 million, is significantly raised by NE Colorado Cellular's cost estimate, which is 3 times larger than the next highest estimate, and 60 times larger than the lowest estimate. NE Colorado Cellular's absolute costs also seem high. It reports 80% of its network to be Huawei equipment, which it estimates would cost $360 million to replace. That implies a network with a replacement cost of approximately $450 million (= $360 million/0.8 million). Assuming an annual cost factor of 25%, this implies annual expenses of $112.5 million. As a comparison, the annual cost of switching in the Connect America Model is 0.2671, the sum of the annual charge factors for capital expenditures, 0.1476, and operating expenditures, 0.1195. (For the Commission's estimates of the Report and Order costs, the Commission uses a 30% annual charge factor, as it wishes to avoid understating the costs of its actions. Here, the Commission seeks to show that NE Colorado Cellular's costs are high, so it uses a 25% annual charge factor to demonstrate that their reported costs are high even under conservative assumptions.) NE Colorado Cellular reports serving 110,000 customers, so capital costs alone amount to approximately $85 per month per customer ($112.5 million/12/110,000 = $85). Of course, NE Colorado Cellular must recover costs beyond its capital costs. NE Colorado Cellular collects and pays roaming fees, the net of which could reduce the required monthly recovery from its customers, but presumably not radically. Thus, NE Colorado Cellular would need to be charging monthly subscriber fees of around or probably in excess of $85 per month, which seems high, especially compared with T-Mobile's ''Premium Unlimited Plan,'' which costs $50 per month per subscription when four subscriptions are purchased.

99. The Commission expects that firms motivated to report their costs in the record of the proceeding have above average costs. Indeed, the reporting carriers are unlikely to be representative of carriers affected by the Commission's actions, but rather reflect carriers with greater incentives to put their concerns in the record, *i.e.,* carriers for which the impact of a rip-and-replace requirement is large compared with similarly situated non-reporting carriers. In 2018, the 7 carriers who provided rip and replace cost estimates represented only 0.15% of mobile carrier end-user revenues as reported in their FCC Form 499s. Consequently, the Commission conservatively discounts the median of reported costs by between 10% and 20%, which yields an estimated replacement cost for each network of $40 million to $45 million.

100. The Commission generously estimates 106 firms currently buy Huawei and ZTE equipment. Huawei reports serving 85 U.S. customers in 2019. Alternatively, the Commission could rely on the Dell'Oro Group's North American market share estimate for ZTE of zero. This would imply only 85, rather than 106 purchasers, lowering the Commission's cost estimates by approximately 20%. Market share estimates for Huawei and ZTE, respectively of 31.1% and 7.5%, imply 105.5 (= 85 * (1 + 7.5/31.1)) purchasers of equipment from Huawei and ZTE. *See* Dell'Oro Group, Market Research Reports on Mobile Radio Access Network, which also finds Huawei's North American share to be only 1.5% and ZTE's to be zero. This is likely an overestimate as both suppliers, but especially ZTE, have experienced a decline in their U.S. customer bases. For sake of this analysis, however, the Commission rounds up to 106 firms. Given all of these customers are not likely to be ETCs, *e.g.,* they may be firms purchasing Wi-Fi routers for internal use, the Commission estimates between 32 (30%) and 53 (50%) of these firms accept universal service funds. This range is consistent with CoBANK's estimate that 30 rural carriers are impacted.

101. Lastly, the Commission recognizes capital is fungible, and carriers have some leeway to buy Huawei or ZTE equipment from other funding sources. For these carriers, the Commission estimates they may only use universal service funds to replace between 50% and 75% of their existing Huawei or ZTE equipment. The Commission's actions prevents carriers from purchasing Huawei and ZTE equipment using universal service funds but does not prohibit them from purchasing such equipment using funds from other sources so long as they can meet the accounting requirements described in this document. This gives the following lower and upper bounds for the costs of replacing installed Huawei or ZTE equipment:

Lower bound: $640 million = $40 million * 32 * 50%.

Upper bound: $1.79 billion = $45 million * 53 * 75%.

102. *Converting the Replacement Cost into a Cost Stream.* Assuming the average useful life of the equipment in question is ten years, then on average in each year, 10% of the total value of the equipment must be replaced. The Commission adds to this an additional 20% of the value of the equipment for expenses for service and maintenance costs and a return to bondholders and shareholders. The sum equals a generous annual charge factor of 30%. This may be broken down into a 10% factor for capital purchases to maintain the capital base, and a 20% factor for service, maintenance, and a return to bondholders and shareholders. By comparison, the annual cost factor for switching in the Connect America Model is 0.2671 the sum of the annual cost factors for capital expenditures, 0.1476, and operating expenditures, 0.1195. This, with assumptions about prices discussed in this document, allows the Commission to develop a cost stream associated with each year for 20 years.

103. *Comparing Expenses under the Report and Order with the Case of No Report and Order.* Of course, this equipment would be replaced with or without the Commission's requirement. The relevant cost of the Commission's action is the price differential or markup between purchasing alternative equipment and Huawei or ZTE equipment. Sources suggest this markup

ranges from 5% to 40% (not taking into account any change in quality, reliability, or durability). These markups do not account for quality differences between Huawei and ZTE, and their rivals, or the likelihood that these rivals' prices will become more competitive over time. The 40% estimate, which is well above the other two estimates, comes from a carrier that appears particularly concerned about the Commission's actions, and hence may have overestimated the markup. Consequently, the Commission uses the mid-points of each of the other two markup estimates, 10% and 25%, as lower and upper bounds. Using these price markup assumptions and subtracting the annual cost streams in the absence of the Report and Order from the cost streams under the Report and Order results in a stream of cost differences. The Commission thus estimates the present value of the cost differences for the next twenty years that would arise due to the Report and Order ranges from $160 million to $960 million.

104. *The Economic Efficiency Costs of the Commission's Actions.* So far, the Commission has only discussed the replacement cost of its actions. To understand the potential breadth of the economic cost of the Commission's actions, first consider the simple case in which prices of both the cheaper and the more expensive providers recover no more than the economic costs of supply, including a return of capital (capital replacement), and a return on capital, accounting for the risks the firm's owners bear. Call this a normal profit. In that case, the cost just calculated is a key economic cost, representing an increase in resources used because the Commission's actions cause carriers to shift their purchases from more to less efficient providers. But there is a further efficiency consequence of the Commission's actions. Purchase from less efficient suppliers occurs at higher (quality-adjusted) prices. If the quality-adjusted prices of Huawei and ZTE are equal to their rivals' prices, then the Commission's actions would have no costs. However, some carriers prefer Huawei or ZTE to alternative suppliers, implying that these carriers view the prices of Huawei or ZTE to be the lowest quality-adjusted price available to them. This lowers output because end users face higher prices, and consequently purchase less than is efficient. Estimating the efficiency cost of this is difficult, but relative to the replacement cost, the distortion cost is small and likely swamped by the error inherent in the replacement cost estimate. This is true from a global as well as a domestic perspective.

105. This can be seen by focusing on the intermediary market for network equipment, *i.e.,* demand in this market is derived from demand for services provided to end users. This implies the distortions in the intermediary market reflect those in the final market. The reimbursement cost to the Universal Service Fund is the product of the amount of network equipment bought and sold at the new higher prices, call this Q, and the markup over Huawei and ZTE prices, call this ΔP. The cost of the distortion caused by the reduction in demand for network equipment due to inefficiently higher prices is the lost value consumers would have obtained from the additional quantity they would have consumed at the Huawei or ZTE prices. This lost value equals the area under the demand curve in the region where demand is curtailed due to the higher prices of the alternative suppliers. At a first approximation, this cost is, because demand is downward sloping, strictly less than the product of the change in what is bought and sold, call this ΔQ, and the change in price, ΔP. The reimbursement cost, $\Delta P * Q$, swamps the distortion cost, $\Delta P * \Delta Q$, since Q is generally considerably larger than ΔQ. Thus, if higher prices reduce demand by 5% ($= \Delta Q/Q$), then the distortion cost could not add more than 5% to the cost to the Universal Service Fund ($\Delta P * \Delta Q/\Delta P * Q = 5\%$).

106. From a global perspective, the Commission's estimates of the economic cost of its actions would be higher to the extent that Huawei or ZTE earn more than a normal profit despite having substantially lower prices than their rivals. Purchases diverted to alternative suppliers would cause Huawei and ZTE to forgo that extra-normal profit. However, it seems unlikely that Huawei or ZTE earn extra-normal profit. Similarly, from a global perspective, the Commission's economic cost estimate would be lower to the extent that the prices of the rivals of Huawei and ZTE, today essentially being Ericsson and Nokia, incorporate extra-normal profits. While U.S. purchasers, and hence the Universal Service Fund, would be spending more when purchasing from Ericsson and Nokia at higher prices, to the extent these prices incorporate extra-normal profit, this would be a transfer from the U.S. to the foreign owners of Ericsson and Nokia. Finally, from a global perspective, if Huawei or ZTE's prices are less than what is required to recover their costs of operations, *e.g.,* due to a government subsidy, then the economic cost of the Commission's actions would be lower.

107. The Commission rejects Huawei's claims that its actions would reduce 5G deployment and would materially increase mobile radio access network equipment prices in the U.S., which in turn would materially harm growth and employment in the U.S. economy. It is unlikely the Commission's actions will impact U.S. 5G deployment. The four largest U.S. mobile carriers do not use and have no plans to use Huawei (or ZTE) radio access network equipment. Given this, and Aron's claim that there are high costs associated with switching from one equipment manufacturer to another, it is implausible that the Commission's actions will affect these carriers' 5G deployment plans. More broadly, the Commission finds it unlikely that its actions will materially increase U.S. radio access network equipment prices. While carriers that buy equipment from covered companies could face higher prices in the near term (and only to the extent they use universal services funds to purchase that equipment), Huawei's own chief executive has admitted that Huawei has ''virtually no business dealings in the U.S.''—making it far more likely that the Commission's rule will have ''virtually no'' impact on 5G deployment. What is more, the Commission finds that ensuring a robust ecosystem of trusted vendors for 5G equipment (one collateral consequence of the Commission's rule) is more likely to keep 5G equipment prices checked by a competitive market over the long term, facilitating deployment and continued U.S. leadership in 5G.

III. Information Collection Order

108. In the concurrently adopted Further Notice, the Commission seeks comment on proposals to address the national security threats arising from the existing use of equipment or services produced or provided by covered companies. To support the Commission's future efforts to protect the communications supply chain, the Commission directs WCB and OEA, in coordination with USAC, to conduct an information collection to determine the extent to which potentially prohibited equipment exists in current networks and the costs associated with removing such equipment and replacing it with equivalent equipment. The information collection will aid the Commission's review of the record and guide its next steps in the proceeding. Because section 889(f) of the 2019 NDAA identifies specific companies that are prohibited from federal procurements, and the concurrently adopted Further Notice

seeks comment on how to implement those and other prohibitions, the Commission specifically seeks comment on the extent to which equipment or services from companies identified in Section 889 of the NDAA exist in current networks.

109. The Commission seeks information from ETCs on the potential costs associated with the complete removal and replacement of any equipment and services produced or provided by Huawei and ZTE. The information collection applies to all subsidiaries and affiliates of ETCs.

110. Specifically, the Commission seeks information on all equipment and services from Huawei and ZTE that are used or owned by ETCs. ETCs are the subject of the Commission's proposed rule (and among USF recipients the most likely to currently own and use equipment and services from Huawei and ZTE). The Commission therefore limits its information collection only to ETCs and will not require cost information from other USF recipients at this time. The Commission nonetheless will allow service providers that are not ETCs to participate on a voluntary basis should they have ETC designation petitions pending (or may intend to file such in the future). And the Commission will allow other USF recipients who are not ETCs to participate on a voluntary basis as well.

111. In implementing the information collection, WCB and OEA should gather information from ETCs as to whether they own equipment or services from Huawei or ZTE, what that equipment is and what those services are, the cost to purchase and/or install such equipment or services, and the cost to remove and replace such equipment or services. ETCs must demonstrate how they arrived at any cost estimates they provide in response to the information collection. All submissions must be certified to ensure the accuracy of the responses.

112. The information collection shall be mandatory for all ETCs and voluntary for others. The Commission directs WCB to consider the potential confidentiality of any information submitted, particularly where public release of such information could raise security concerns (*e.g.,* granular location information). The Commission expects, however, that the public interest in knowing whether a carrier uses equipment or services from Huawei or ZTE would significantly outweigh any interest the carrier would have in keeping such information confidential. As part of the information collection, the Commission directs WCB and OEA to seek any information necessary to verify responses provided by ETCs to the information collection, including by requiring further information from respondents. The Commission directs WCB and OEA to proceed expeditiously with the information collection, including by seeking emergency PRA approval from OMB, if necessary and appropriate. The Commission believes there is good cause for requesting emergency PRA approval from OMB for the reasons described in the following. Given the nature of the national security concerns, the Commission finds that the serious and immediate risks to communications networks likely justify the expedited approval of the information collection.

IV. Procedural Matters

A. Paperwork Reduction Act

113. This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in the proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

B. Congressional Review Act

114. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2), because it is promulgated under the Telecommunications Act of 1996 and the amendments made by that Act. The Commission will send a copy of this Report and Order, Further Notice of Proposed Rulemaking, and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

115. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Protecting Against National Security Threats Notice* for the proceeding. The Commission sought written public comment on the proposed rule in the *Protecting Against National Security Threats Notice,* including comment on the IRFA. The Commission received only a single comment on the IRFA. Because the Commission amends its rules in the Report and Order, the Commission has included the Final Regulatory Flexibility Analysis (FRFA). The present FRFA conforms to the RFA.

116. Consistent with the Commission's obligation to be responsible stewards of the public funds used in USF programs and increasing concern about ensuring communications supply chain integrity, the Order adopts a rule that restricts universal service support from being used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain.

117. The RFA directs agencies to provide a description and, where feasible, an estimate of the number of small entities that may be affected by the final rules adopted pursuant to the Order. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. *See* 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

118. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes in this document, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility

analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

119. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of Aug 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

120. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

121. Small entities potentially affected by the rules herein include Schools and Libraries, Healthcare Providers, Providers of Telecommunications and other Services, Internet Service Providers and Vendors and Equipment Manufacturers.

122. *Restriction on Use of USF Funds.* The Order adopts a rule that no universal service support may be used to purchase or obtain any equipment or services produced or provided by a covered company posing a national security threat to the integrity of communications networks or the communications supply chain. Applicants may continue to use their own funds to upgrade and maintain such equipment. They must, however, be able to affirmatively demonstrate that they have not used any funds obtained via the USF to purchase, obtain, maintain, improve, modify, or otherwise support equipment or services provided or manufactured by a covered company. This restriction applies to any and all equipment and services, including software, produced or provided by a covered company. Because the rule is prospective in effect, it does not prohibit the use of existing services or equipment already deployed or in use. USF recipients may seek waivers of the requirements.

123. *Covered Companies.* The Report and Order initially designates Huawei and ZTE as covered companies for purposes of the prohibition the Commission adopts in this document. Independently, the Order establishes a process for designating entities as national security threats for purposes of the Commission's rule, and delegates to the PSHSB the authority to implement this process, as well as the next steps in the designation processes for Huawei and ZTE. Because equipment from subsidiaries, parents, and affiliates pose the same risks to network integrity as equipment directly from the covered company, the Commission includes any subsidiary, parent, or affiliate of a covered company as a covered company subject to the Commission's prohibition.

124. *Effective Date of Rule.* Because of the compelling interest in protecting our national security, the Commission concludes that the rule it adopts in this document should take effect immediately upon publication in the **Federal Register**. For purposes of the Lifeline and High-Cost Support Programs, any prohibition on the use of USF funds will take effect immediately upon publication of the effective date contained in the Final Designation Notice designating an entity as a covered company posing a national security threat. A requirement that USF recipients certify that they are in compliance with the Commission's rule will take effect following revision of each information collection as described in the Order, including approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. For E-Rate and Rural Health Care Recipients, the rule the Commission adopts will apply to all funding years that start after the designation of a covered company. The Commission's rule extends to existing contracts to acquire equipment or services from any covered company that were negotiated and entered into prior to the final designation of that entity as a covered company. In other words, existing multiyear contracts to acquire equipment or services from a covered company will not be exempt from the rule.

125. *Compliance Certifications.* The Order establishes that the Commission should require recipients of universal service support to provide a certification that they have complied with the adopted rule, and directs WCB, in coordination with USAC, to revise the relevant information collections for each of the four USF programs to implement a certification attesting to compliance with the adopted rule.

126. *Audits and Recovery of Funds.* The Order directs USAC to implement audit procedures for each USF program consistent with the adopted rule. USF recipients must be able to affirmatively demonstrate that no universal service funds were used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services provided or manufactured by covered companies. The Order notes that applicants in the E-rate and Rural Health Care programs already retain and provide information either during the application process or during audit and program integrity assurance processes that could demonstrate (if verified) that no USF funds were improperly used. And many ETCs receiving High Cost funding now report the projects they complete using federal funds to the High Cost Universal Broadband portal, allowing relatively swift verification by USAC of compliance. To the extent that other ETCs do not yet report information to USAC that would verify compliance, the Commission directs WCB and USAC to revise its information collection and audit procedures to ensure the reporting of USF expenditures in a manner that will allow efficient oversight and thorough compliance. The Order does not depart from the requirement that directs USAC to pursue recovery actions against the party or parties that committed the rule or statutory violation in question, recognizing that, in some instances, this could be the applicant school, library, health care provider, or consortium, rather than the service provider.

127. *Information Collection.* The Information Collection Order directs WCB and OEA, in coordination with USAC, to conduct an information collection to determine the extent to which potentially prohibited equipment exists in current networks and the costs associated with removing such equipment and replacing it with equivalent equipment. Specifically, the information collection will seek information from ETCs on the potential costs associated with the complete removal and replacement of any equipment and services produced or

provided by Huawei and ZTE. Specifically, the Commission seeks information on all equipment and services from Huawei and ZTE that are used or owned by ETCs. ETCs are the subject of the Commission's proposed rule (and among USF recipients the most likely to currently own and use equipment and services from Huawei and ZTE). The Commission therefore limits its information collection only to ETCs and will not require cost information from other USF recipients at this time. The Commission nonetheless will allow service providers that are not ETCs to participate on a voluntary basis should they have ETC designation petitions pending (or may intend to file such in the future). And the Commission will allow other USF recipients who are not ETCs to participate on a voluntary basis as well.

128. In implementing the information collection, WCB and OEA should gather information from ETCs as to whether they own equipment or services from Huawei or ZTE, what that equipment is and what those services are, the cost to purchase and/or install such equipment or services, and the cost to remove and replace such equipment or services. ETCs must demonstrate how they arrived at any cost estimates they provide in response to the information collection. All submissions must be certified to ensure the accuracy of the responses. The information collection shall be mandatory for all ETCs and voluntary for others. The information collection applies to all subsidiaries and affiliates of ETCs. The Information Collection Order directs WCB to consider the potential confidentiality of any information submitted, particularly where public release of such information could raise security concerns (*e.g.,* granular location information). The Commission expects, however, that the public interest in knowing whether a carrier uses equipment or services from Huawei or ZTE would significantly outweigh any interest the carrier would have in keeping such information confidential. As part of the information collection, the Commission directs WCB and OEA to seek any information necessary to verify responses provided by ETCs to the information collection, including by requiring further information from respondents. The Commission directs WCB and OEA to proceed expeditiously with the information collection, including by seeking emergency PRA approval from OMB, if necessary and appropriate.

129. The RFA requires an agency to describe the steps the agency has taken to minimize the significant economic impact on small entities of the final rule, consistent with the stated objectives of the applicable statutes, including a statement of the factual, policy, and legal reasons in support of the final rule, and why any significant alternatives to the rule considered by the agency and which affect the impact on small entities were rejected.

130. The scope of the rule adopted in the Order is carefully limited so as to lessen its impact on small entities. Because the rule is prospective in effect, it does not prohibit the use of existing services or equipment already deployed or in use. USF recipients may continue to use equipment or services provided or produced by covered companies obtained prior to the issuance of the rule, although they may not use USF funds to purchase, obtain, maintain, improve, modify, or otherwise support such equipment or services in any way. Recipients may also continue to use their own funds to upgrade and maintain such equipment, so long as they do not use USF funds to do so. The Order also permits USF recipients to seek a waiver of the requirements. In these ways, the Order seeks to minimize the economic burden of these rules on small entities.

131. *Effective Date.* The rules adopted herein and the initial designations of Huawei and ZTE as covered companies shall be effective immediately upon publication in the **Federal Register**.

132. While a rule ordinarily will take effect 30 days after publication in the **Federal Register**, the Commission finds here that good cause exists to expedite the implementation of these rules and to make them effective upon publication in the **Federal Register**. In finding that good cause exists, the Commission applies the test articulated by the D.C. Circuit in *Omnipoint Corporation* v. *FCC,* which requires an agency to ''balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.''

133. The Commission first examines the necessity for immediate implementation. The record before the Commission establishes that the nature of today's communications networks is such that untrusted participants in the supply chain pose a serious and immediate risk to the integrity and proper functioning of these networks. In addition, expediting the Commission's process for analyzing such risks serves to minimize the scope of exposure of USF recipients to the significant flaws in their networks from future installation of equipment that may compromise the security of these networks, and any resulting need to replace such equipment. Against this critical national security concern the Commission balances the concerns of fairness to affected parties—including whether dispensing with the 30-day waiting period will deprive affected parties of ''a reasonable time to adjust their behavior before the final rule takes effect.'' Here, the Commission notes that the principal effect of the rules adopted in the Report and Order—restriction on the spending of USF to certain suppliers designated as a threat to national security—will not take effect until an entity is actually designated as a threat to national security under the proposed rules. Thus, no entity will be designated until—at the earliest—31 days after the effective date of the Report and Order. In other words, making these rules effective immediately upon publication in the **Federal Register** will not inhibit any party's ability to ''prepare for [their] effective date'' because the rules the Commission adopts in this document does not include any requirements with which USF recipients must immediately comply.

134. While the Commission has adopted initial designations of Huawei and ZTE as covered companies, use of USF support to procure or otherwise support equipment or services produced or provided by these two companies has not and will not be disallowed until such time as PSHSB issues a public notice announcing its final determination and the effective date of any potential final designation of one or both of these companies. To the extent that accelerating the effective date requires these companies to respond more quickly to their initial designation, the Commission will provide copies of the Report and Order to both parties or their U.S. agents or affiliates immediately after release. The Commission has recognized that a finding of good cause under section 553(d)(3) can be further supported where ''the Commission is serving those entities by overnight mail.''

135. Even were the rules the Commission adopts in this document to have an immediate impact on USF recipients, it does not believe it would affect the Commission's findings here. Many service providers have already made the business decision to purchase equipment from alternative vendors in order to avoid security risks. Given this, and the industry's long-standing knowledge of the risks posed by the installation and purchase of such equipment, the Commission believes that the impact of an immediate effective date would be minimal.

136. In this case, given the critical security concerns at issue, and the fact that an expedited schedule will not impede the ability of interested parties to prepare for the implementation of the rules the Commission adopts in this document, it finds that good cause exists, in accordance with the balancing test articulated by the Court in *Omnipoint,* to expedite the implementation of these rules and to make them effective immediately upon publication in the **Federal Register**.

137. *Ex Parte Presentations.* This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

V. Ordering Clauses

138. Accordingly, *it is ordered,* pursuant to in sections 1–4, 201(b), 229 and 254 of the Communications Act of 1934, as amended, and section 105 of the Communications Assistance for Law Enforcement Act, 47 U.S.C. 151–154, 201(b), 229, 254, 1004, that the Report and Order *is adopted.*

139. *It is further ordered* that Part 54 of the Commission's rules *is amended* as set forth in the following.

140. *It is further ordered* that, pursuant to §§ 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), the Report and Order *shall be effective* immediately upon publication of the Report and Order in the **Federal Register**.

141. *It is further ordered* that, pursuant to §§ 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), the initial designations adopted in this order *shall be effective* immediately upon publication of the Report and Order in the **Federal Register**.

142. *It is further ordered,* pursuant to sections 1–4, 201(b) and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201(b), 254, that the Information Collection Order *is adopted*. Information collection pursuant to the Order *shall be effective* immediately upon OMB approval.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, and 1302 unless otherwise noted.

■ 2. Add § 54.9 to subpart A to read as follows:

§ 54.9 Prohibition on use of funds.

(a) *USF support restriction* No universal service support may be used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain.

(b) *Designation of Entities Subject to Prohibition.* (1) When the Public Safety and Homeland Security Bureau (PSHSB) determines, either *sua sponte* or in response to a petition from an outside party, that a company poses a national security threat to the integrity of communications networks or the communications supply chain, PSHSB shall issue a public notice advising that such designation has been proposed as well as the basis for such designation.

(2) Upon issuance of such notice, interested parties may file comments responding to the initial designation, including proffering an opposition to the initial designation. If the initial designation is unopposed, the entity shall be deemed to pose a national security threat 31 days after the issuance of the notice. If any party opposes the initial designation, the designation shall take effect only if PSHSB determines that the affected entity should nevertheless be designated as a national security threat to the integrity of communications networks or the communications supply chain. In either case, PSHSB shall issue a second public notice announcing its final designation and the effective date of its final designation. PSHSB shall make a final designation no later than 120 days after release of its initial determination notice. PSHSB may, however, extend such 120-day deadline for good cause.

(3) PSHSB will act to reverse its designation upon a finding that an entity is no longer a threat to the integrity of communications networks or the communications supply chain. A designated company, or any other interested party, may submit a petition asking PSHSB to remove a designation. PSHSB shall seek the input of Executive Branch agencies and the public upon receipt of such a petition. If the record shows that a designated company is no longer a national security threat, PSHSB shall promptly issue an order reversing its designation of that company. PSHSB may dismiss repetitive or frivolous petitions for reversal of a designation without notice and comment. If PSHSB reverses its designation, PSHSB shall issue an order announcing its decision along with the basis for its decision.

(4) PSHSB shall have discretion to revise this process or follow a different process if appropriate to the circumstances, consistent with providing affected parties an opportunity to respond and with any

need to act expeditiously in individual cases.

[FR Doc. 2019–27610 Filed 1–2–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 180625576–8999–02]

RIN 0648–BJ43

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2019–2020 Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to management measures in commercial groundfish fisheries. This action is intended to allow commercial fishing vessels to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: This final rule is effective January 2, 2020.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, phone: 206–526–4491 or email: *karen.palmigiano@noaa.gov.*

Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's website at *http://www.pcouncil.org/.*

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at 50 CFR part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for two-year periods (*i.e.,* a biennium). NMFS published the final rule to implement harvest specifications and management measures for the 2019–2020 biennium for most species managed under the PCGFMP on December 12, 2018 (83 FR 63970). In general, the management measures set at the start of the biennial harvest specifications cycle help the various sectors of the fishery attain, but not exceed, the catch limits for each stock. The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal.

Pacific Coast groundfish fisheries are managed using harvest specifications or limits (*e.g.,* overfishing limits [OFL], acceptable biological catch [ABC], annual catch limits [ACL] and harvest guidelines [HG]) which are recommended biennially by the Council and based on the best scientific information available at that time (50 CFR 660.60(b)). During development of the harvest specifications, the Council also recommends management measures (*e.g.,* trip limits, area closures, and bag limits) that are meant to mitigate catch so as not to exceed the harvest specifications. The harvest specifications and mitigation measures developed for the 2019–2020 biennium used data through the 2017 fishing year.

Throughout the 2019 fishing year, the Council's Groundfish Management Team (GMT) monitored inseason catch and updated catch projections based on new information as it became available. Based on those updated projections, and requests from Council and industry members to investigate potential for inseason trip limit adjustments, the Council recommended adjustments to management measures at its March, April, June, and September meetings. NMFS subsequently implemented each of the Council's recommendations through final rule and made a total of 13 adjustments during the 2019 fishing year (84 FR 25708, June 4, 2019; 84 FR 37780, August 2, 2019; 84 FR 56142, October 21, 2019). Each of the adjustments to management measures were based on updated fisheries information that was unavailable when the analysis for the current harvest specifications was completed.

At its November 14–20, 2019 meeting, the Council recommended adjustments to the trip limits for vessels in the limited entry fixed gear (LEFG) and open access (OA) fisheries that are targeting sablefish, lingcod, the Minor Slope rockfish complex and darkblotched rockfish, the Minor Nearshore Rockfish complex, deeper nearshore rockfish complex, and bocaccio for 2020. The Council also recommended adjustments to the Shorebased Individual Fishing Quota (IFQ) Program fishery trip limits for big skate for 2020.

The following adjustments rely on analysis of commercial fisheries data through mid-November 2019 to inform catch projections for 2020 under the current trip limits. As new fisheries data becomes available, adjustments to management measures are implemented so as to help harvesters achieve but not exceed the harvest limits.

Sablefish Trip Limits

Sablefish is an important commercial species on the West Coast with vessels targeting sablefish with both trawl and fixed gear (longlines and pots/traps). Sablefish is managed with area specific ACLs that are apportioned north and south of 36° N lat. with 73.8 percent going to the north and 26.2 percent going to the south.

Sablefish North

In 2019, the ACL for sablefish north of 36° N lat. is 5,606 mt with a fishery harvest guideline of 5,007 mt. For 2020, the ACL for sablefish north is 5,723 mt, with a fishery harvest guideline of 5,113 mt. The fishery harvest guideline for the area north of 36 N lat. is further divided between the LEFG and OA sectors with 90.6 percent going to the LEFG sector and 9.4 percent going to the OA sector.

In 2019, the Council recommended, and NMFS implemented, two inseason adjustments to increase trip limits for LEFG and OA vessels targeting sablefish north and south of 36° N lat. (84 FR 37780, August 2, 2019; 84 FR 56142, October 21, 2019). These trip limit increases were possible because of unanticipated low sablefish prices that contributed to less than projected fishery participation throughout 2019. This low participation resulted in total attainment, as of November 2019, of around 50 percent of the LEFG and OA portion of the fishery harvest guideline for the area north of 36° N lat. and total attainment around 10 percent of fixed gear portion of the fishery harvest guideline south of 36° N lat.

At the November 2019 Council meeting, the Council's GMT made model-based landings projections under current trip limits for 2020 based on the most recent catch information available through mid-November 2019. According to the projections, under the current trip limits, the LEFG and OA sectors targeting sablefish north of 36° N lat. would likely exceed their portion of the fishery harvest guidelines in 2020 by 10

percent and 25 percent, respectively. Therefore, the GMT recommended the Council consider starting the 2020 fishing year with a more conservative trip limit, specifically the pre-season 2019 trip limit for LEFG and OA north of 36° N lat. (Table 1). Based on the GMT's projections, under these more conservative trip limit options, attainment for the LEFG fishery would likely be around 84.1–91.2 percent and 67.7–93.1 percent for the OA fishery.

TABLE 1—CURRENT SABLEFISH NORTH TRIP LIMITS IN REGULATION AT THE END OF 2019 AND THOSE RECOMMENDED BY THE COUNCIL FOR THE START OF THE 2020 FISHING YEAR

Fishery	Trip Limits					
	Jan–Feb	March–April	May–June	July–Aug	Sept–Oct	Nov–Dec
LEFG North of 36° N lat	Current: 1,300 lb (560 kg)/week, not to exceed 3,900 lb (1,769 kg)/two months.				Current: 1,700 lb (771 kg)/week, not to exceed 5,100 lb (2,313 kg)/two months.	
	Recommended: 1,300 lb (560 kg)/week, not to exceed 3,900 lb (1,769 kg)/two months.					
OA North of 36° N lat	Current: 300 lb (136 kg)/day; or one landing per week up to 1,200 lb (544 kg), not to exceed 2,400 lb (1089 kg)/two months.			Current: 300 lb (136 kg) day; or one landing per week up to 1,400 lb (635 kg), not to exceed 2,800 lb (1,270 kg)/two months.	Current: 300 lb day (136 kg); or one landing per week up to 1,500 lb (680 kg), not to exceed 3,000 lb (1,361)/two months.	
	Recommended: 300 lb (136 kg)/day; or one landing per week up to 1,200 lb (544 kg), not to exceed 2,400 lb (1089 kg)/two months.					

Sablefish South

The 2019 portion of the ACL for sablefish south of 36° N lat. is 1,990 mt with a fishery harvest guideline of 1,986 mt. For 2020, the ACL is slightly higher at 2,032 mt, with a harvest guideline of 2,028 mt. South of 36° N lat., the fishery harvest guideline is further divided between the trawl (limited entry) and non-trawl (LEFG and OA) sectors with 42 percent going to the trawl sector, and the remaining 58 percent going to the fixed gear sector.

In August 2019, NMFS implemented, based on the Council's June 2019 recommendation, an adjustment to the trip limits for OA fishery which increased the bimonthly limit from 3,200 lbs (1,452 kg) to 4,800 lbs (2,177 kg) to provide additional opportunities for individuals in what is a very low attainment fishery (Table 2) (84 FR 37780, August 2, 2019). At the November 2019 meeting, the GMT made model-based projections for attainment in 2020 for the OA fishery targeting sablefish south of 36° N lat. using the trip limits currently in regulation. The projections showed that even with the higher bimonthly limit (4,800 lbs [2,177 kg] per two months) for the entire 2020 fishing year, instead of just the latter half of the year as was done in 2019, total attainment would likely only be around 7–10 percent of the fixed gear harvest guideline (1,176.1 mt). However, the GMT recommended maintaining the higher bimonthly limit as it is expected to benefit individuals who target sablefish south of 36° N lat.

TABLE 2—CURRENT SABLEFISH SOUTH TRIP LIMITS IN REGULATION AT THE END OF 2019 AND THOSE RECOMMENDED BY THE COUNCIL FOR THE START OF THE 2020 FISHING YEAR

Fishery	Trip Limits					
	Jan–Feb	March–April	May–June	July–Aug	Sept–Oct	Nov–Dec
OA South of 36° N lat	Current: 300 lb (136 kg)/day; or one landing per week up to 1,600 lb (726 kg), not to exceed 3,200 lb (1,452 kg)/two months.			Current: 300 lb (136 kg)/day; or one landing per week up to 1,600 lb (726 kg), not to exceed 4,800 lb (2,177 kg)/two months.		
	Recommended: 300 lb (136 kg)/day; or one landing per week up to 1,600 lb (726 kg), not to exceed 4,800 lb (2,177 kg)/two months.					

The proposed 2020 trip limits for LEFG and OA both north and south of 36° N lat. do not change projected impacts to co-occurring overfished species compared to the impacts anticipated in the 2019–20 harvest specifications because the anticipated impacts to those species assume that the entire sablefish ACL is harvested. The Council recommended and NMFS is implementing, by modifying Tables 2 North and South to 50 CFR part 660, subpart E, the following trip limit for the LEFG fishery north of 36° N lat., ''1,300 lb (560 kg) per week, not to exceed 3,900 lb (1,769 kg) per two months'' beginning in period one (January and February) through the end of the year. NMFS is also implementing, by modifying Table 3 North to 50 CFR part 660, subpart F, the following trip limits for the OA sablefish fishery north of 36° N lat., ''300 lb (136 kg) per day, or one landing per week up to 1,200 lb (544 kg), not to exceed 2,400 lb (1,089 kg)/two months'' beginning in period one (January and February) through the end of the year. NMFS is also implementing, by modifying Table 3 South to 50 CFR part 660, subpart F, the following trip limits for the OA sablefish fishery south of 36° N lat., ''300 lb (136 kg) per day, or one landing per week up to 1,600 lb (726 kg), not to exceed 4,800 lb (2,177 kg)/two months'' beginning in period one (January and February) through the end of the year.

Lingcod Trip Limits

During development of the 2019–2020 harvest specifications, the Council recommended deviating from the default harvest control rules for lingcod north and south of 40°10′ N lat., reflecting greater confidence in the

current stock assessment. The 2019 ACL for the northern stock is 4,871 mt with a fishery harvest guideline of 4,593 mt. For 2020, the ACL is 4,541 mt with a fishery harvest guideline of 4,263 mt. The 2019 ACL for the southern stock is 1,039 mt with a fishery harvest guideline of 1,028 mt. For 2020, the ACL is 869 mt with a fishery harvest guideline of 858 mt. The fishery harvest guideline in each area is then split between the trawl (45 percent) and non-trawl (55 percent) sectors according to the Amendment 21 allocations as specified at § 660.55(c) and Chapter 6 of the PCGFMP. The non-trawl percentage is shared between the LEFG, OA, and recreational fisheries.

Lingcod is a low attainment stock for both management areas north and south of 40°10′ N lat. Attainment, as of mid-November, in the north is just 19 percent of the ACL and in the south is 29 percent of the ACL. At the Council's November meeting, the GMT received requests from industry members to increase the OA lingcod trip limits north of 42° N lat., but did not receive a request to change the trip limits for the area between 42° N lat. and 40°10′ N lat. Because the stock is managed with a split at the 40°10′ N lat. management line, the Council uses more conservative LEFG and OA trip limits from 40°10′ to 42° N lat. than north of 42 ° N lat. to reflect the differences in the stock assessments which models the stocks north and south of 42° N lat. The GMT made model-based catch projections for lingcod north of 40°10′ N lat. under the current trip limits and potential increased trip limits for the 2020 fishing year. Under the current trip limits, the total non-trawl mortality in 2020 north of 40°10′ N lat. is projected to be 537.8 mt, or 23 percent, of the total 2020 non-trawl share of the fishery harvest guideline (2,345 mt). Under the proposed trip limits for north of 42° N lat, which would increase the LEFG bimonthly limit from ''2,000 lbs (907 kg) per two months'' to ''2,600 lbs (1,179 kg) per two months'' and the OA trip limits from ''900 lb (408 kg) per two months'' to ''1,200 lb (544 kg) per two months,'' the total non-trawl mortality in 2020 is estimated to be 547.1 mt, or 23.3 percent, of the 2,345 mt non-trawl share of the fishery harvest guideline (4,263 mt) and just 12 percent of the ACL (4,541 mt) for north of 40°10′ N lat.

Therefore, the Council recommended and NMFS is implementing, by modifying Table 2 North to 50 CFR part 660 subpart E and Table 3 North to part 660 subpart F, increases to commercial trip limits for LEFG and OA vessels north of 42° N lat. beginning with period one (January and February) in 2020. LEFG trip limits will increase from ''2,000 lb (907 kg) per two months'' to ''2,600 lb (1,179 kg) per two months'' for all periods in 2020. OA fishery trip limits will increase from ''900 lb (408 kg) per month'' to ''1,200 lb (544 kg) per month'' for all periods in 2020. The trip limits for LEFG and OA vessels targeting lingcod between 40°10′ N lat. and 42° N lat. will not change and will remain at their current limits in regulation.

During the 2019 fishing year, the Council recommended, and NMFS implemented midway through period three (May through June, 84 FR 25708, June 4, 2019), adjustments to LEFG and OA trip limits, as well as recreational bag limits, for lingcod south of 40°10′ N lat., using updated fisheries information through 2018, in an effort to increase attainment. Based on the GMT's analysis at that time, increasing the trip limits for LEFG and OA, as well as the recreational bag limit, for vessels targeting lingcod south of 40°10′ N lat. beginning in early June was projected to increase total attainment from 264 mt to 456 mt or from 47 percent of the non-trawl harvest guideline (565.2 mt) to 81 percent.

Reverting to the reduced trip limits for the LEFG and OA vessels targeting lingcod south of 40°10′ N lat. beginning in January 2020 (period one) would be a steep decrease from the period six (November through December) limits and could result in disruptions in the markets and potential confusion with fishers. Therefore, at the Council's November meeting, the GMT recommended the Council adopt higher trip limits for both LEFG and OA vessels targeting lingcod south of 40°10′ N lat. Under status quo trip limits, the total non-trawl impacts are projected to be 461.2 mt, or 98 percent, of the non-trawl share of the harvest guideline (471.7 mt). The recommended increased trip limits are projected to increase attainment by 8.6 mt resulting in total non-trawl impacts projected to be 469.8, or 100 percent of the non-trawl share of the harvest guideline.

Therefore, the Council recommended, and NMFS is implementing, by modifying Table 2 South to 50 CFR part 660 subpart E and Table 3 South to part 660 subpart F, increases to commercial trip limits for LEFG and OA vessels south of 40°10′ N lat. beginning with Period one (January and February) in 2020. LEFG trip limits will increase from ''200 lb (90 kg) per two months'' to ''1,200 (544 kg) lbs per two months.'' OA trip limits will increase from ''300 lb (136 kg) per month'' to ''500 lb (227 kg) per month.'' Period two (March through April) will remain closed for both LEFG and OA vessels targeting lingcod south of 40°10′ N lat.

Minor Slope Rockfish and Darkblotched Rockfish Trip Limits

The Minor Slope Rockfish Complex north of 40°10′ N lat. is comprised of aurora rockfish, bank rockfish, blackgill rockfish, blackspotted rockfish, redbanded rockfish, rougheye rockfish, sharpchin rockfish, shortraker rockfish, splitnose rockfish, and yellowmouth rockfish. Although darkblotched rockfish is not included in the Slope Rockfish complex and has its own coastwide harvest specifications, it is managed with the same collective trip limit.

The 2019 darkblotched rockfish ACL is 765 mt with a 731 mt harvest guideline. The 2020 ACL is 815 mt with a fishery harvest guideline of 781 mt. The harvest guideline is further split between the trawl and non-trawl sectors with trawl receiving the majority of the share, 95 percent, and the non-trawl sector receiving five percent. The 2019 ACL for the Minor Slope Rockfish Complex north of 40°10′ N lat. is 1,746 mt with a 1,665 mt fishery harvest guideline. The 2020 ACL for the Minor Slope Rockfish Complex north of 40°10′ N lat. is 1,732 mt with a 1,651 mt fishery harvest guideline. The fishery harvest guideline is split between the trawl sector (81 percent) and the non-trawl sector (19 percent). During development of the 2019–20 harvest specifications, the Council selected a 4,000 lb (1,814 mt) bimonthly trip limit to allow vessels targeting sablefish, mainly in the primary sablefish fishery, to retain some incidental catches of slope rockfish. Total mortality for darkblotched rockfish in 2019 is 378.3 mt, or just under 50 percent, of the ACL. Total mortality in 2019 for minor slope rockfish north of 40°10′ N lat. is 506.1 mt, or 29 percent of the ACL.

At the Council's November meeting, members of the Council's Groundfish Advisory Subpanel (GAP) requested a moderate increase to the trip limits for the Minor Slope Rockfish complex and darkblotched rockfish for 2020 to accommodate a few individuals that have had to discard incidental rockfish because the trip limit is too low. The GMT confirmed that in rare instances vessels have been attaining their full trip limit (4,000 lb [1,814 kg] per two months) while fishing for sablefish and therefore could benefit from a slight increase in the trip limit.

The GMT made catch projections for 2020 based on a moderate 2,000 lb (907 kg) per two month trip limit increase bringing the trip limit for LEFG slope and darkblotched rockfish to ''6,000 lb

(2,722 kg) per two months'' starting in period one (January through February) and going through the end of the year. Because there are only a few instances of boats catching the current limit, the GMT projected that this increase would likely result in additional landings of around 1.8 mt. Like with all trip limit projections, this projection is based on the assumption that the same number of boats will participate, and that only those vessels that have been catching the lower trip limit will catch the proposed increased trip limit. Therefore, total mortality is expected to remain the same since fishermen would be allowed to land more fish instead of having to discard them and count them as dead. The total impacts projected for 2020 for non-trawl sectors are expected to be low for both darkblotched (6.6 mt of a 39.1 mt share) and the Minor Slope Rockfish complex north of 40°10′ N lat. (81.5 mt of a 313.67 mt share.)

Therefore, based on the information provided, the Council recommended and NMFS is implementing, by modifying Table 2 North to 50 CFR part 660 subpart D, an increase to the Minor Slope Rockfish Complex and darkblotched rockfish north of 40°10′ N lat. trips limits for LEFG vessels from ''4,000 lb (1,814 kg) per two months'' for all periods to ''6,000 lb (2,722 kg) per two months'' for all periods beginning with period one (January through February).

Minor Nearshore Rockfish Complex North of 40°10′ N Lat.

The Minor Nearshore Rockfish complex north of 40°10′ N lat. includes 13 species of rockfish: Black and yellow rockfish, blue rockfish, brown rockfish, calico rockfish, China rockfish, copper rockfish, deacon rockfish, gopher rockfish, grass rockfish, kelp rockfish, olive rockfish, quillback rockfish, and treefish. The ACLs for the Minor Nearshore Rockfish complex north of 40°10′ N lat. are 81 mt in 2019 and 82 mt in 2020 with a 79 mt fishery harvest guideline in both years. Unlike other species or species complexes, the coastwide harvest guideline for the Minor Nearshore Rockfish complex north of 40°10′ N lat. is not allocated between trawl and non-trawl sectors because the trawl impacts are so minor. Instead, Washington, Oregon, and California have a sharing agreement and divide the federal harvest guideline for each of the species in the complex into state landing targets. The States then divide their shares between their commercial fixed gear and recreational sectors. Using the harvest guidelines along with catch information, the Council designates management measures to maximize catch within these state target limits while also limiting impacts to co-occurring rebuilding species such as yelloweye rockfish.

Most vessels fishing in California's nearshore fishery do not hold a Federal limited entry permit and are considered federal OA fixed gear vessels. California restricts participation in the nearshore fishery by requiring a state limited entry permit to harvest nearshore groundfish species. Trip limits for these fisheries are designed to keep catch within nearshore species state and Federal limits while providing a year-round fishing opportunity, if possible. The total California share of the coastwide harvest guideline the Minor Nearshore Rockfish complex is 36.6 mt for 2019 and 37.9 mt for 2020.

When the Council developed the 2019 and 2020 management measures for California's share of the harvest guideline for the Minor Nearshore Rockfish complex in 2018, commercial catch data was only available through the end of the 2016 fishing year. State landing targets were based on the projected mortality from 2017 trip limits rather than average landings to account for potential additional effort within the fishery due to newly adopted state permit transfer provisions. LEFG and OA fixed gear trip limits for the Minor Nearshore Rockfish complex were set for 2019 at the same levels used in the 2017–2018 harvest specifications in order to remain precautionary due to uncertainty about potential increasing effort.

At the Council meeting in March 2019, the GMT updated projections for the Minor Nearshore Rockfish complex with catch information through the end of 2018. Based on this updated information the Council recommended adjusting the commercial sector trip limits for period two through period six from ''7,000 lb (3,175 kg) per two months, no more than 1,200 lb (544 kg) of which may be species other than black rockfish'' to ''7,000 lb (3,175 kg) per two months, no more than 1,500 lb (680 kg) of which may be species other than black rockfish.'' No change was requested for the black rockfish trip limit. NMFS implemented this change beginning with period three (May through June) through the end of the 2019 fishing year (84 FR 25708, June 4, 2019).

Under the current regulations, the Minor Nearshore Rockfish complex trip limits would revert back to ''1,200 lb (544 kg) per two months for all other species besides black rockfish'' in periods one (January through February) and two (March through April) from the 1,500 lb (680 kg) per two months limit implemented by NMFS in June 2019. The trip limit for periods three (May through June) through six (November through December) will remain unchanged from what is currently in regulations. At the November 2019 meeting, members of the GAP requested an increase to the Minor Nearshore Rockfish complex trip limits for all species except black rockfish, for periods one and two in 2020 to be consistent with periods three (March through April) through six (November through December). The GMT made catch projections under the current regulations and under the GAP's requested increased trip limit for the 2020 fishing year. Under the current regulations, total landings for minor nearshore rockfish between 42° N lat. and 40°10′ N lat. are projected to be 30.7 mt, or 84 percent of the 2020 California fishery landing target (36.6 mt). Under the increased trip limit, total landings of minor nearshore rockfish between 42° N lat. and 40°10′ N lat. are expected to increase by 0.3 mt to 31 mt, or 82 percent of the 2020 California fishery landing target (37.9 mt). This change will help provide consistency and stability in the trip limits.

Therefore, the Council recommended, and NMFS is implementing, by modifying Table 2 North to 50 CFR part 660 subpart E and Table 3 North to part 660 subpart F, an increase to the Minor Nearshore rockfish complex trip limits for LEFG and OA fisheries between 42° N lat. and 40°10′ N lat. for period one and two from ''8,500 lb per two months, no more than 1,200 lb of which may be species other than black rockfish'' to ''8,500 lb per two months, no more than 1,500 lb of which may be species other than black rockfish.'' The trip limit for periods three (May through June) through six (November through December) will remain unchanged from what is currently in regulations.

Deeper Nearshore Rockfish South of 40°10′ N Lat.

The Minor Nearshore Rockfish complex south of 40°10′ N lat. is subdivided into two management categories: (1) Shallow nearshore rockfish (black-and-yellow rockfish, China rockfish, gopher rockfish, grass rockfish, and kelp rockfish), and (2) deeper nearshore rockfish (brown rockfish, calico rockfish, copper rockfish, olive rockfish, quillback rockfish, and treefish). California restricts participation in the nearshore fishery by requiring vessels have a shallow or a deeper nearshore permit. The ACL for the Minor Nearshore Rockfish complex south of 40°10′ N lat.

is 1,142 mt in 2019 with a 1,138 mt harvest guideline and 1,163 mt for 2020 with a 1,159 mt harvest guideline. The harvest guideline is shared between vessels targeting shallow and deeper nearshore rockfish.

When the Council developed the 2019–2020 management measures for California's deeper nearshore rockfish in 2018, commercial catch data through the end of the 2017 fishing year was not available. Instead, the analysis used data from previous fishing years and assumptions were made about fishing effort in the 2017 fishing year based on this data to project impacts through the remainder of 2017. Based on this information, trip limits for deeper nearshore rockfish for LEFG and OA were set in 2019 at the same levels used in the 2017–2018 harvest specifications.

In March 2019, the GMT updated the catch projections for the Minor Nearshore Rockfish complex south of 40°10′ N lat. with commercial fishing data through the end of 2018. Based on those updated projections, the Council recommended and NMFS implemented an increase to the LEFG and OA trip limits for deeper nearshore rockfish south of 40°10′ N lat. for periods three (May through June) through six (November through December) (84 FR 25708, June 4, 2019). Period two remained closed.

At the November 2019 meeting, the GAP requested the Council consider increasing the LEFG and OA 2020 trip limits for vessels targeting species within the deeper nearshore rockfish complex. The increase would only be for period one of 2020 (January through February) and would maintain the current trip limit for period six in 2019 of ''1,200 lb (544 kg) per two months.'' Without this trip limit increase for period one, the trip limits for LEFG and OA vessels targeting deeper nearshore rockfish would decrease to ''1,000 lb (454 kg) per two months'' for period one. Period two would remain closed and in period three (May through June) the limits, under current regulations, would once again return to ''1,200 lbs (544 kg) per two months'' until the end of the year.

Under the current regulations, LEFG and OA vessels targeting minor nearshore rockfish are projected to catch 110 mt (55 mt for the deeper nearshore vessels and 55 mt for the shallow nearshore vessels) in 2020. Increasing the trip limit for the deeper nearshore vessels would have a limited impact on these projected catches. Deeper nearshore projected attainment would likely increase by about 0.7 mt, bringing the total commercial nearshore impacts to 111.2 mt. With the recreational fishery projected to take around 611.6 mt under the current bag limits, total catch projections for the non-trawl sector is 721.6 mt, or 62.3 percent of the non-trawl share. With the increased impacts from the increased trip limit, total catch projections for the non-trawl share are expected to increase to 722.8 mt or 62.4 percent of the non-trawl share.

Therefore, based on the GMT's analysis, the Council recommended and NMFS is implementing, by modifying Tables 2 South to 50 CFR part 660 subpart E and Table 3 Sorth to part 660 subpart F, an increase to the period one (January through February) trip limits for deeper nearshore rockfish south of 40°10′ N lat. from ''1,000 (454 kg) per two months'' to ''1,200 lb (544 kg) per two months.'' Period two will remain closed and no changes were requested for periods three (May through June) through 6 (November through December).

LEFG Trip Limits for Bocaccio Between 40°10′ N Lat. and 34 °27′ N Lat.

Bocaccio is managed with stock-specific harvest specifications south of 40°10′ N lat. and within the Minor Shelf Rockfish complex north of 40°10′ N lat. NMFS declared bocaccio overfished in 1999, and implemented a rebuilding plan for the stock in 2000. NMFS declared bocaccio officially rebuilt in 2017. New, higher catch limits resulting from their rebuilt status were implemented for bocaccio for the first time in 2019. For example, the non-trawl allocation of bocaccio increased from 442.3 mt in 2018 to 1,250 mt in 2019.

For 2019, the bocaccio ACL south of 40°10′ N lat. is 2,097 mt with a fishery harvest guideline of 2,051 mt. The non-trawl share of the fishery harvest guideline is 1,250.2 mt, or 61 percent of the fishery harvest guideline. In 2020, the bocaccio ACL south of 40°10′ N lat. is 2,011 mt with a fishery harvest guideline of 1,965 mt. The non-trawl share of the fishery harvest guideline is 1,197.8 mt or 61 percent of the fishery harvest guideline. The supporting analysis for the 2019–2020 harvest specifications used landings data through the 2017 fishing year to determine appropriate mitigation measures (*e.g.,* commercial trip limits and recreational bag limits) to ensure catch reaches but does not exceed the bocaccio ACL for south of 40°10′ N lat.

Based on updated fisheries information presented at the June 2019 Council meeting, the Council recommended and NMFS implemented an increase to the bocaccio trip limits for the LEFG fishery between 40°10′ N lat. and 34°27′ N lat. beginning in period four (July–August) through the end of the year (84 FR 37780, August 2, 2019). This helped align the trip limits for this area with the bocaccio trip limits for vessels fishing south of 34°27′ N lat. At the time, the GMT projected that total mortality would increase by less than 0.1 mt from the status quo trip limits which were 134.6 mt, or 11 percent of the non-trawl harvest guideline and six percent of the 2019 bocaccio ACL for south of 40°10′ N lat.

At the November 2019 Council meeting, the GMT provided updated catch projections for bocaccio south of 40°10′ N lat. through the end of the year. Landings of bocaccio for the LEFG vessels in 2019 are now projected to be about 18 mt, or 6.8 mt higher than previously projected by the GMT at the June 2019 Council meeting. However, total mortality is still only 150.8 mt, or 12.6 percent, of the non-trawl harvest guideline and 29 percent of the ACL for bocaccio south of 40°10′ N lat. These higher than projected catches are likely due to more than twice as many LEFG vessels participating in this area during periods four (July through August) and period five (September through October) than had fished during those periods in the previous year.

Due to the positive increase in landings, the GAP requested the GMT investigate the possibility of increasing the 2020 fishing year trip limits for bocaccio for period one (January through February) through period three (May through June) in the area between 40°10′ N lat. and 34°27′ N lat. Without further action by the Council, the trip limits for bocaccio in this area would decrease from ''1,500 lb (680 kg) per two months'' in period six to ''1,000 (454 kg) per two months'' for periods one through three. Increasing the bocaccio trip limits for periods one through three beginning in 2020 would provide consistency for the fishermen and could help spur more growth for the LEFG fishery off central California where participation has been low in recent years. Under the increased trip limits in periods one through three, projected attainment of the non-trawl share (1,197.8 mt) is expected to increase from 150.8 mt to 153 mt, an increase of 2.2 mt or 0.2 percent.

The primary objective of nearshore fisheries north and south of 40°10′ N lat. has been to maximize opportunity for target stocks while staying within the overfishing/rebuilding species limits, in particular yelloweye rockfish. Therefore, any time the Council considers an increase to trip limits for vessels targeting nearshore rockfish (minor, shallow, or deeper), lingcod

south of 40°10′ N lat., or bocaccio south of 40°10′ N lat. impacts to yelloweye rockfish must also be projected using a model-based approach.

The 2020 yellow rockfish ACL is 49 mt and the harvest guideline is 43 mt. The nearshore harvest guideline is 6.2 mt with a nearshore annual catch target of 4.9 mt. Taking into account the proposed changes to the trip limits for nearshore rockfish, lingcod south of 40°10′ N lat., or bocaccio south of 40°10′ N lat., the projected impacts to yelloweye rockfish in 2020 are 0.6 mt. These impacts are 1.0 mt less than California's share of the yelloweye rockfish harvest guideline for nearshore fisheries (1.6 mt).

Therefore, based on the above information, the Council recommended and NMFS is implementing, by modifying Table 2 South to 50 CFR part 600 subpart E, an increase to the bocaccio limit for period one (January through February) through period three (May through June) only in the area between 40°10′ N lat. and 34°27′ N lat. The trip limit will increase from ''1,000 lb (454 kg) per two months'' to ''1,500 lb (680 kg) per two months''. This change will create one consistent trip limit throughout all periods in 2020.

Shorebased IFQ Program Fishery Trip Limits for Big Skate

Previously managed as an ecosystem component species, big skate was moved ''into the fishery'' through the 2017–2018 harvest specifications because large landings off Oregon suggested vessels in the Pacific Coast groundfish fishery are targeting big skate. Big skate is the only non-IFQ species managed coast-wide with bimonthly trip limits in the IFQ fishery. For 2019 and 2020, the ACL for big skate is 494 mt with a fishery harvest guideline of 452 mt. The trawl allocation is 95 percent or 429.5 mt. An additional 41 mt was deducted from the trawl allocation to account for bycatch in the at-sea sector and shorebased IFQ discard mortality resulting in a landing target of 388.5 mt for the trawl sector. Current trip limits for big skate for vessels in the IFQ fishery can be found in Table 3.

TABLE 3—BIG SKATE TRIP LIMITS FOR THE 2019 FISHING YEAR

Jan–Feb	Mar–Apr	May–Jun	Jul–Aug	Sep–Oct	Nov–Dec
5,000 lb (2,258 kg)/2 months.	25,000 lb (11,340 kg)/2 months.	30,000 lb (13,608 kg)/2 months.	70,000 lb (31,751 kg)/2 months.	20,000 lb (9,072 kg)/2 months.	20,000 lb (9,072 kg)/2 months.

At the June 2019 Council meeting, the GAP requested the Council consider increasing the big skate trip limits due to lower than projected catch in 2019, which industry suggested is likely due to several fishermen who targeted big skate retiring in recent years. Therefore, the Council recommended and NMFS implemented increases to the big skate trip limits for shorebased IFQ fishery beginning in period four (July–August) through the end of the year (84 FR 37780, August 2, 2019). During development of the 2019–2020 harvest specifications, the GMT analysis used relatively high 2016–2017 landings and projected that attainment would be around 98 percent of the landings targets in 2019. However, landings decreased dramatically in 2018 (218 mt out of 494 mt ACL with the shorebased IFQ sector harvesting 128 mt) and the same trend has continued throughout 2019. Under the current trip limits (Table 3), projected landings through the end of 2019 are expected to be 132 mt, or 34 percent, of the landing target (388.5 mt), which is about 28.4 mt less than was projected to be caught when the GMT ran the projections in June 2019. This would likely continue to be the result in 2020 without further trip limit increases.

Therefore, the GMT analyzed increased trip limits for big skate for 2020 that would result in a constant trip limit of ''70,000 lb (31,751 kg) per two months'' for all periods beginning in period one (January through February) through the end of the 2020 fishing year. This trip limit increase is expected to increase landings of big skate in the IFQ fishery by 31.3 mt over the current trip limits to 163.3 mt, or 42 percent of the landings target (388.5 mt).

Therefore, in order to maximize opportunities for the few vessels targeting big skate in the shorebased IFQ fishery in 2020, the Council recommended, and NMFS is implementing, by modifying Tables 1 (North and South) to 50 CFR part 660, subpart D, a trip limit of ''70,000 lb (31,751 kg) per two months'' beginning in period one (January through February) through the end of the year.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best scientific information available, consistent with the PCGFMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection by contacting Karen Palmigiano in NMFS West Coast Region (see **FOR FURTHER INFORMATION CONTACT**, above), or view at the NMFS West Coast Groundfish website: *http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html.*

Pursuant to 5 U.S.C. 553(b), NMFS finds good cause to waive prior public notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The adjustments to management measures in this document ease restrictive trip limits for fisheries in Washington, Oregon, and California. These limits were originally implemented at the beginning of the 2019–2020 biennium and were based on information through 2017. Since then, the GMT has conducted inseason monitoring which allowed the Council to increase many of these trip limits at some point in 2019. Without implementing the suggested increases now, these trip limits would revert back to numbers that are no longer based on the best available information. No aspect of this action is controversial, and changes of this nature were anticipated in the final rule for the 2019–2020 harvest specifications and management measures which published on December 12, 2018 (83 FR 63970).

At its November 2019 meeting, the Council recommended increases to the commercial trip limits be implemented as soon as possible so that harvesters may be able to take advantage of these higher limits at the start of the 2020 fishing year and not be subject to limits initially implemented January 1, 2019. Each of the trip limit increases in this rule will create more harvest opportunity and allow fishermen to better attain species that are currently under-attained without causing any additional impacts to the fishery. Each of these recommended adjustments also rely on new catch data that were not

available and thus not considered during the 2019–2020 biennial harvest specifications process. New catch information through mid-November shows that attainment of lingcod, bocaccio, minor nearshore rockfish, big skate, deeper nearshore rockfish, minor slope rockfish, and darkblotched rockfish has been below their respective management points management points (*i.e.,* harvest guideline, ACL, and non-trawl allocation) in 2019 and would likely remain below catch targets under status quo limits in 2020.

These trip limit adjustments could provide up to an additional $250,000 in ex-vessel revenue to harvesters, as well as $489,000 in income and jobs when including benefits to communities and associated businesses. Delaying implementation to allow for public comment would likely reduce the economic benefits to the commercial fishing industry and the businesses that rely on that industry because it is unlikely the new regulations would publish and could be implemented for the start of the fishing year. Therefore, providing a comment period for this action could significantly limit the economic benefits to the fishery, and would hamper the achievement of optimum yield from the affected fisheries.

Therefore, the NMFS finds reason to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(1) so that this final rule may become effective on January 2, 2020. The adjustments to management measures in this document affect commercial fisheries by increasing opportunity and relieving participants of the more restrictive trip limits. These adjustments were requested by the Council's advisory bodies, as well as members of industry during the Council's November 2019 meeting, and recommended unanimously by the Council. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established through a notice and comment rulemaking for 2019–2020 (82 FR 63970).

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: December 19, 2019.

Jennifer M. Wallace,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. Tables 1 (North) and (South) to part 660, subpart D are revised to read as follows:

BILLING CODE 3510–22–P

Table 1 (North) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using limited entry bottom trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species. This table will describe Block Area Closures for vessels using limited entry bottom trawl gear that are in effect for more than one year.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 01/02/20120

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	100 fm line[1/] - 150 fm line[1/]					
South of 46°16' N. lat., Block Area Closures (BACs) may be implemented, and will be announced in the *Federal Register*							
See provisions at § 660.130(c) and (e) for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.							
See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §660.11, §§660.70-660.74, §§ 660.76-660.79 and §660.111 for Conservation Area Definitions and Coordinates.							
State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.							
2	**Minor Nearshore Rockfish, Washington Black rockfish & Oregon Black/blue/deacon rockfish**	300 lb/ month					
3	**Whiting[2/]**						
4	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
5	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
6	**Oregon Cabezon/Kelp Greenling complex**	50 lb/ month					
7	**Cabezon in California**	50 lb/ month					
8	**Shortbelly rockfish**	Unlimited					
9	**Spiny dogfish**	60,000 lb/ month					
		70,000 lb/ 2 months					
11	**Longnose skate**	Unlimited					
12	**Other Fish [3/]**	Unlimited					

TABLE 1 (North)

1/ The Rockfish Conservation Area is a type of Groundfish Conservation Area, defined at §660.11, and defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting. See §§660.112 and 660.130 for more information.

2/ As specified at §660.131(d), when fishing in the Eureka Area, no more than 10,000 lb of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during the fishing trip, fished in the fishery management area shoreward of 100 fm contour.

3/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 1 (South) to Part 660, Subpart D -- Limited Entry Trawl Landing Allowances for non-IFQ Species and Pacific Whiting South of 40°10' N. Lat.

This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.This table will describe Block Area Closures for vessels using limited entry bottom trawl gear that are in effect for more than one year.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 01/02/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Block Area Clousres (BACs) may be implemented, and will be announced in the *Federal Register*						
	See provisions at §660.130(c) and (e) for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at §660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at §660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E						
	See §660.60, §660.130, and §660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §660.11, §§660.70-660.74, §§660.76-660.79 and §660.111 for Conservation Area Definitions and Coordinates.						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
1	**Longspine thornyhead**						
2	South of 34°27' N. lat.	24,000 lb/ 2 months					
3	**Minor Nearshore Rockfish, California Black rockfish, & Oregon Black/Blue/Deacon rockfish**	300 lb/ month					
4	**Whiting**						
5	midwater trawl	During the Primary whiting season allowed with the depth restrictions described at §660.130(c).					
6	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
7	**Cabezon**	50 lb/ month					
8	**Shortbelly rockfish**	Unlimited					
9	**Spiny dogfish**	60,000 lb/ month					
		70,000 lb/ 2 months					
11	**Longnose skate**	Unlimited					
12	**California scorpionfish**	Unlimited					
13	**Other Fish** [1/]	Unlimited					

[1/] "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

TABLE 1 (South)

■ 3. Tables 2 (North) and (South) to part 660, subpart E are revised to read as follows:

Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 01/02/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	6,000 lb/2 month					
5	**Pacific ocean perch**	1,800 lb/ 2 months					
6	**Sablefish**	1,300 lb week, not to exceed 3,900 lbs/2months					
7	**Longspine thornyhead**	10,000 lb/ 2 months					
8	**Shortspine thornyhead**	2,000 lb/ 2 months			2,500 lb/ 2 months		
9 10 11 12 13 14	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
15	**Whiting**	10,000 lb/ trip					
16	**Minor Shelf Rockfish[2/], Shortbelly, & Widow rockfish**	200 lb/ month					
17	**Yellowtail rockfish**	1,000 lb/ month					
18	**Canary rockfish**	300 lb/ 2 months					
19	**Yelloweye rockfish**	CLOSED					
20	**Minor Nearshore Rockfish, Washington Black rockfish & Oregon Black/blue/deacon rockfish**						
21	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[4/]					
22	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, no more than 1,500 lb of which may be species other than black rockfish	7,000 lb/ 2 months, no more than 1,500 lb of which may be species other than black rockfish				
23	**Lingcod[5/]**						
24	North of 42°00' N. lat.	2,600 lb/2 months					
25	42°00' N. lat. - 40°10' N. lat.	1,400 lb/2 months					
26	**Pacific cod**	1,000 lb/ 2 months					
27	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
28	**Longnose skate**	Unlimited					
29	**Other Fish[6/]& Cabezon in California**	Unlimited					
30	**Oregon Cabezon/Kelp Greenling**	Unlimited					
31	**Big skate**	Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish and splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 01/02/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N. lat. - 34°27' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.	75 fm line[1/] - 150 fm line[1/] (also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
3	**Minor Slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months, of which no more than 1,375 lb may be blackgill rockfish		40,000 lb/ 2 months, of which no more than 4,000 lb may be blackgill rockfish			
4	**Splitnose rockfish**	40,000 lb/ 2 months					
5	**Sablefish**						
6	40°10' N. lat. - 36°00' N. lat.	1,700 lb/week, not to exceed 5,100 lb/ 2 months					
7	South of 36°00' N. lat.	2,000 lb/ week					
8	**Longspine thornyhead**	10,000 lb/ 2 months					
9	**Shortspine thornyhead**						
10	40°10' N. lat. - 34°27' N. lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12 13 14 15 16 17	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
18	**Whiting**	10,000 lb/ trip					
19	**Minor Shelf Rockfish[2/], Shortbelly rockfish, Widow rockfish (including Chilipepper between 40°10' - 34°27' N. lat.)**						
20	40°10' N. lat. - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb may be any species other than chilipepper.					
21	South of 34°27' N. lat.	4,000 lb/ 2 months	CLOSED	4,000 lb/ 2 months			
22	**Chilipepper**	Chilipepper included under minor shelf rockfish, shortbelly and widow rockfish limits - - See above					
23	40°10' N. lat. - 34°27' N. lat.						
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the non-trawl RCA					
25	**Canary rockfish**						
26	40°10' N. lat. - 34°27' N. lat.	300 lb/ 2 months					
27	South of 34°27' N. lat.	300 lb/ 2 months	CLOSED	300 lb/ 2 months			
28	**Yelloweye rockfish**	CLOSED					
29	**Cowcod**	CLOSED					
30	**Bronzespotted rockfish**	CLOSED					
31	**Bocaccio**						
32	40°10' N. lat. - 34°27' N. lat.	1,500 lb/ 2 months					
33	South of 34°27' N. lat.	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
34	**Minor Nearshore Rockfish, California Black rockfish, & Oregon Black/Blue/Deacon rockfish**						
35	Shallow nearshore[4/]	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
36	Deeper nearshore[5/]	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
37	**California Scorpionfish**	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
38	**Lingcod[6/]**	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
		1,000 lb/ 2 months					
40	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
41	**Longnose skate**	Unlimited					
42	**Other Fish[7/] & Cabezon in California**	Unlimited					
43	**Big Skate**	Unlimited					

TABLE 2 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*).

6/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 4. Table 3 (North) and Table 3 (South) as follows:
to part 660, subpart F are revised to read

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 01/02/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
	See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Bank, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	500 pounds/month					
5	**Pacific ocean perch**	100 lb/ month					
6	**Sablefish**	300 lb day; or one landing per week up to 1,200 lb, not to exceed 2,400 lb/2 months					
7	**Shortpine thornyheads**	50 lb/ month					
8	**Longspine thornyheads**	50 lb/ month					
9	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
		South of 42° N. lat., when fishing for "Other Flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
10	**Whiting**	300 lb/ month					
11	**Minor Shelf Rockfish[2/], Shortbelly rockfish, & Widow rockfish**	200 lb/ month					
12	**Yellowtail rockfish**	500 lb/ month					
13	**Canary rockfish**	300 lb/ 2 months					
14	**Yelloweye rockfish**	CLOSED					
15	**Minor Nearshore Rockfish, Washington Black rockfish, & Oregon Black/Blue/Deacon rockfish**						
16	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish [4/]					
17	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, no more than 1,500 lb of which may be species other than black rockfish	7,000 lb/ 2 months, no more than 1,500 lb of which may be species other than black rockfish				
18	**Lingcod[5/]**						
19	North of 42°00' N. lat.	1,200 lb/month					
20	42°00' N. lat. - 40°10' N. lat.	600 lb/ month					
21	**Pacific cod**	1,000 lb/ 2 months					
22	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
23	**Longnose skate**	Unlimited					
24	**Big skate**	Unlimited					
25	**Other Fish[6/] & Cabezon in California**	Unlimited					
26	**Oregon Cabezon/Kelp Greenling**	Unlimited					

TABLE 3 (North)

Table 3 (North). Continued 01/02/2020

TABLE 3 (North) cont'd

32	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*	
33	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. Salmon trollers may retain and land up to 1 lingcod per 5 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. This limit only applies during times when lingcod retention is allowed, and is not "CLOSED." This limit is within the per month limit for lingcod described in the table above, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.
34	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*	
35	North	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 01/02/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N. lat. - 34°27' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.	75 fm line[1/] - 150 fm line[1/](also applies around islands)					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	10,000 lb/ 2 months, of which no more than 475 lb may be blackgill rockfish		10,000 lb/ 2 months, of which no more than 800 lb may be blackgill rockfish			
4	**Splitnose rockfish**	200 lb/ month					
5	**Sablefish**						
6	40°10' N. lat. - 36°00' N. lat.	300 lb day; or one landing per week up to 1,200 lb, not to exceed 2,400 lb/2 months					
7	South of 36°00' N. lat.	300 lb day; or one landing per week up to 1,600 lb not to exceed 4,800 lb/2 months					
8	**Shortpine thornyheads and longspine thornyheads**						
9	40°10' N. lat. - 34°27' N. lat.	CLOSED					
10	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
12							
13		South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
14							
15							
16							
17	**Whiting**	300 lb/ month					
18	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish and Chilipepper**						
19	40°10' N. lat. - 34°27' N. lat.	400 lb/ 2 months	CLOSED	400 lb/ 2 months			
20	South of 34°27' N. lat.	1,500 lb/ 2 months		1,500 lb/ 2 months			
21	**Canary rockfish**	300 lb/ 2 months	CLOSED	300 lb/ 2 months			
22	**Yelloweye rockfish**	CLOSED					
23	**Cowcod**	CLOSED					
24	**Bronzespotted rockfish**	CLOSED					
25	**Bocaccio**	500 lb/ 2 months	CLOSED	500 lb/ 2 months			
26	**Minor Nearshore Rockfish, California Black rockfish, & Oregon Black/Blue/Deacon rockfish**						
27	Shallow nearshore[4/]	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
28	Deeper nearshore[5/]	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
29	**California scorpionfish**	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
30	**Lingcod[6/]**	500 lb/month	CLOSED	500 lb/ month			
31	**Pacific cod**	1,000 lb/ 2 months					
32	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
33	**Longnose skate**	Unlimited					
34	**Big skate**	Unlimited					
35	**Other Fish[7/] & Cabezon in California**	Unlimited					

TABLE 3 (South)

Table 3 (South). Continued 01/02/2020

TABLE 3 (South) cont'd

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
36	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**							
37	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**							
38		*40° 10' N. lat. - 38° 00' N. lat.*	*100 fm line 1/ - 200 fm line 1/*	*100 fm line 1/ - 150 fm line 1/*				*100 fm line 1/ - 200 fm line 1/*
39		*38° 00' N. lat. - 34° 27' N. lat.*	*100 fm line 1/ - 150 fm line 1/*					
40		*South of 34° 27' N. lat.*	*100 fm line 1/ - 150 fm line 1/ along the mainland coast; shoreline - 150 fm line 1/ around islands*					
41			Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 29).					
42	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*							
43		South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary rockfish, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*).

6/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other fish" are defined at § 660.11 and includes kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

[FR Doc. 2019–27982 Filed 1–2–20; 8:45 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 85, No. 2
Friday, January 3, 2020

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

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM01–8–012]

Revised Public Utility Filing Requirements for Electric Quarterly Reports

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Withdrawal of notice of proposed rulemaking and termination of rulemaking proceeding.

SUMMARY: The Commission withdraws a notice of proposed rulemaking, which proposed to revise the Electric Quarterly Report (EQR) Data Dictionary to add ''Simultaneous Exchange'' to the list of available Product Names in the EQR.

DATES: This withdrawal will become effective February 3, 2020.

FOR FURTHER INFORMATION CONTACT: Suthima Malayaman (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8864.

SUPPLEMENTARY INFORMATION:

1. On March 15, 2012, the Commission issued a Notice of Proposed Rulemaking (NOPR) in this proceeding.[1] For the reasons set forth below, we are exercising our discretion to withdraw the NOPR and terminate this rulemaking proceeding.

I. Background

2. In the NOPR, the Commission proposed to revise the Electric Quarterly Report (EQR) Data Dictionary to add ''Simultaneous Exchange'' to the list of available Product Names in the EQR and to require all EQR filers to use this term, when appropriate, in the Contract Data section and the Transaction Data section of the EQR.[2] The Commission stated that, simultaneous exchanges, which occur in both organized and non-organized energy markets, are complicated and varied. The Commission expressed its concern that the complexity of simultaneous exchanges may obscure the true nature of these transactions, and may enable market participants to circumvent market rules. Thus, in order to enhance transparency, the Commission asserted that it is important that EQR filers report simultaneous exchanges in the EQR.

3. The Commission clarified that only the overlapping portion of a simultaneous exchange transaction should be reported as a simultaneous exchange.[3] In addition, the Commission proposed that non-overlapping portions of the arrangements should be reported in a separate entry as a power sale.

4. The Commission further proposed that parties reporting simultaneous exchange transactions report the price spread for these transactions, rather than the price assigned by the parties of the individual power sales that make up the simultaneous exchange.[4] The Commission stated that, for the parties to a simultaneous exchange transaction, prices assigned to the power at either point in the transaction (if applicable) do not necessarily represent the economic values of the power being exchanged at those points. Thus, to ensure the presence of meaningful price information in EQR, the Commission proposed to adopt the requirement that EQR filers report the price spread of each simultaneous exchange.

5. Finally, the Commission proposed to require each party entering into a simultaneous exchange to report both the point of delivery and the point of receipt associated with the simultaneous exchange transaction.[5]

II. Discussion

6. Subsequent to the issuance of the NOPR, significant changes have occurred in the way power is exchanged in markets across the country. For instance, in November 2014, the California Independent System Operator Corporation and PacifiCorp launched the Western Energy Imbalance Market (EIM).[6] The EIM provides EQR-reportable products that are similar to simultaneous exchange transactions, and the availability of these products may have reduced the use of simultaneous exchange transactions. As a result, we conclude that it is no longer necessary to adopt the regulation proposed in the NOPR. We therefore withdraw the NOPR and terminate this rulemaking proceeding.

The Commission orders: The Notice of Proposed Rulemaking is hereby withdrawn and Docket No. RM01–8–012 is hereby terminated.

By direction of the Commission.

Issued: December 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–27922 Filed 1–2–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 210

[FISCAL–2019–0001]

RIN 1510–AB32

Federal Government Participation in the Automated Clearing House

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking with request for comment.

SUMMARY: The Department of the Treasury, Bureau of the Fiscal Service (Fiscal Service) is proposing to amend its regulation governing the use of the Automated Clearing House (ACH) Network by Federal agencies. Our regulation adopts, with some exceptions, the Nacha Operating Rules developed by Nacha, formerly known as

[1] *Revised Public Utility Filing Requirements for Electric Quarterly Reports,* 77 FR 16494 (Mar. 21, 2012), FERC Stats. & Regs. ¶ 32,687 (2012).

[2] *Id.* P 6. The Commission proposed the following definition: ''Simultaneous exchanges occur when a pair of simultaneously arranged (*i.e.,* part of the same negotiations) wholesale power transactions between the same counterparties in which party A sells an electricity product to party B at one location and party B sells a similar electricity product to party A at a different location have an overlapping delivery period. The simultaneous exchange is the overlapping portion (both in volume and delivery period) of these wholesale power transactions.'' *Id.*

[3] *Id.* P 9.

[4] *Id.* P 10.

[5] *Id.* P 12.

[6] *Cal. Indep. Sys. Operator Corp.,* 147 FERC ¶ 61,231 (2014). As of 2019, the EIM now has nine active participants.

NACHA—The Electronic Payments Association (Nacha), as the rules governing the use of the ACH Network by Federal agencies. We are issuing this proposed rule to address changes that Nacha has made to the Nacha Operating Rules since the publication of the 2016 Nacha Operating Rules & Guidelines book. These changes include amendments set forth in the 2017, 2018, and 2019 Nacha Operating Rules & Guidelines books, including supplements thereto, with an effective date on or before June 30, 2021.

DATES: Comments on the proposed rule must be received by February 3, 2020.

ADDRESSES: Comments on this rule, identified by docket FISCAL–2019–0001, should only be submitted using the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions on the website for submitting comments.
- *Mail:* Ian Macoy, Bureau of the Fiscal Service, 3201 Pennsy Drive, Building E, Landover, MD 20785.

The fax and email methods of submitting comments on rules to Fiscal Service have been decommissioned.

Instructions: All submissions received must include the agency name (Bureau of the Fiscal Service) and docket number FISCAL–2019–0001 for this rulemaking. In general, comments received will be published on *Regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not disclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. You can download this proposed rule at the following website: *https://www.fiscal.treasury.gov/ach/.*

In accordance with the U.S. government's eRulemaking Initiative, Fiscal Service publishes rulemaking information on *www.regulations.gov. Regulations.gov* offers the public the ability to comment on, search, and view publicly available rulemaking materials, including comments received on rules.

FOR FURTHER INFORMATION CONTACT: Ian Macoy, Director of Settlement Services, at (202) 874–6835 or *ian.macoy@fiscal.treasury.gov;* or Natalie H. Diana, Senior Counsel, at (202) 874–6680 or *natalie.diana@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Title 31 CFR part 210 (Part 210) governs the use of the ACH Network by Federal agencies. The ACH Network is a nationwide electronic fund transfer system that provides for the inter-bank clearing of electronic credit and debit transactions and for the exchange of payment-related information among participating financial institutions. Rights and obligations among participants in the ACH Network are governed by the Nacha Operating Rules, which Part 210 incorporates by reference, with certain exceptions. From time to time, the Fiscal Service amends Part 210 in order to address changes that Nacha periodically makes to the Nacha Operating Rules or to revise the regulation as otherwise appropriate.

Currently, Part 210 incorporates the Nacha Operating Rules as set forth in the 2016 Nacha Operating Rules & Guidelines book. Nacha has adopted a number of changes to the Nacha Operating Rules since the publication of the 2016 Nacha Operating Rules & Guidelines book, as reflected in the 2019 Nacha Operating Rules & Guidelines book (2019 Rule Book) and supplements thereto. We are proposing to incorporate in Part 210 most, but not all, of these changes. We are also proposing one change to Part 210, related to reclamations, that does not stem from a change to the Nacha Operating Rules, and several non-substantive changes to reflect the renumbering of certain Nacha rules and appendices.

We are requesting public comment on all the proposed amendments to Part 210.

II. Summary of Proposed Rule Changes

A. 2017 Nacha Operating Rules & Guidelines Book (2017 Rules Book) Changes

The 2017 Rules Book contains a new rule, the Third-Party Sender Rule, which requires every Originating Depository Financial Institution (ODFI) either to register its Third-Party Sender customers with Nacha or to provide Nacha with a statement that it has no such customers. The rule, which became effective on September 29, 2017, establishes deadlines for the initial provision and updating of registration information, and provides that Nacha may request from an ODFI certain additional information regarding a Third-Party Sender.

A Third-Party Sender is a type of third-party service provider that acts as an intermediary in transmitting entries between an Originator and an ODFI. Federal agencies and Fiscal Service do not utilize Third-Party Senders. Although Fiscal Service uses fiscal and financial agents (Federal Reserve Banks and depository financial institutions, respectively) in its ACH payments and collections operations, those entities are not providing services in a capacity as Third-Party Senders. Accordingly, the rule will not affect the Federal government. We are proposing to incorporate in Part 210 the Third-Party Sender Rule.

B. 2018 Nacha Operating Rules & Guidelines Book (2018 Rules Book) Changes

Nacha did not publish any new rules in the 2018 Rules Book. The 2018 Rule Book contains revisions related to the implementation of Phase 2 of Same Day ACH, which we adopted in 2017 (See 82 FR 42597), and the Third-Party Sender Rule discussed in Section A above.

C. 2019 Nacha Operating Rules & Guidelines Book (2019 Rules Book) Changes

The 2019 Rules Book contains changes related to the following amendments:

- Faster Funds Availability;
- Same Day ACH Dollar Limit Increase; and
- New Same Day ACH Processing Window.

We are proposing to incorporate in Part 210 all of the foregoing amendments.

1. Faster Funds Availability

The Faster Funds Availability rule will provide faster funds availability for many ACH credits. Funds from Same Day ACH credits processed in the first Same Day processing window will be made available to the Receiver for withdrawal by 1:30 p.m., Receiving Depository Financial Institution (RDFI) local time. Funds from all non-Same Day ACH credits that are made available to the RDFI by 5:00 p.m., RDFI local time, on the banking day before Settlement Date will be available to the Receiver for withdrawal by 9:00 a.m., RDFI local time, on Settlement Date.

Currently, funds from non-Same Day ACH credits are required to be made available to the Receiver for withdrawal by the end of the Settlement Date, which can be at any hour before the RDFI's close of business or by the end of day at an ATM. One exception is for Prearranged Payment and Deposit (PPD) credits made available to the RDFI by 5:00 p.m., RDFI local time, on the banking day before Settlement Date. The RDFI must provide funds availability for these credits by the opening of business on Settlement Date. This exception will now be the standard practice for any ACH credit made available to the RDFI by 5:00 p.m., RDFI local time, on the

banking day before Settlement Date. This rule change also establishes a firm time of 9:00 a.m., RDFI local time, for such availability and eliminates references to ''opening of business.''

Receivers will have earlier funds availability for a large portion of ACH credits:

- Funds from non-Same Day ACH credits made available to the RDFI by 5:00 p.m., RDFI local time, on the banking day before settlement will be available to the Receiver for withdrawal on Settlement Date by 9:00 a.m., RDFI local time;
- Funds from Same Day credits received in the first Same Day ACH processing window will be available to the Receiver for withdrawal by 1:30 p.m., RDFI local time; and
- Funds from Same Day credits received in the second Same Day ACH processing window will be available to the Receiver for withdrawal by 5:00 p.m., RDFI local time.

This Nacha rule became effective on September 20, 2019. We are proposing to accept this amendment. Because the government is not a depository institution, the rule will not affect the government's receipt of ACH payments, but will mean that some recipients of government Same Day and non-Same Day ACH payments will have earlier access to their funds from their financial institutions.

2. Same Day ACH Dollar Limit Increase

The Same Day ACH Dollar Limit Increase rule will increase the per-transaction dollar limit for Same Day transactions from $25,000 to $100,000. At implementation, both Same Day ACH credits and Same Day ACH debits will be eligible for Same Day processing up to $100,000 per transaction. Nacha's rule will become effective on March 20, 2020.

We are proposing to accept this rule. Acceptance of this rule will enable individuals and entities to make Same Day ACH payments of up to $100,000 to the government, and will enable Federal agencies to make Same Day ACH payments of up to $100,000.

3. New Same Day ACH Processing Window

The New Same Day ACH Processing Window rule will create a new processing window that will enable ODFIs and their customers to originate Same Day transactions for an additional two hours each banking day. The new window will allow Same Day ACH files to be submitted to the ACH Operators until 4:45 p.m. ET. RDFIs will receive files from this third window by 5:30 p.m. ET, with interbank settlement occurring at 6:00 p.m. ET. RDFIs will need to make funds available for credits processed in the new window by the end of their processing for that Settlement Date. All credits and debits, and all returns, will be eligible to be processed in the new Same Day ACH window, with the exception of International ACH Transactions (IATs), Automated Enrollment Entries (ENRs), and forward entries in excess of the per-transaction dollar limit.

Currently, ODFIs can submit Same Day ACH files to the ACH Operators until 2:45 p.m. ET. ODFI processing arrangements that use payment processors and correspondent institutions have earlier deadlines. ACH end-users may have even earlier deadlines to submit Same Day ACH files to their ODFIs. These timing requirements can make it impractical for many ODFIs to offer, or for ACH end-users to adopt, Same Day ACH payments. Adding a third, later Same Day ACH processing window will provide greater access for all ODFIs and their customers.

Nacha's rule will become effective on March 19, 2021. We are proposing to accept this rule, which will give more individuals and entities the opportunity to pay the government by Same Day ACH. It will also make it possible for the government to originate Same Day ACH payments later in the day than is currently possible.

D. Supplement #2–2018 to the Nacha Operating Rules Changes

On November 2, 2018, the Nacha Voting Membership approved nine amendments to the Nacha Operating Rules. Because the nine amendments were approved just prior to publication of the 2019 Rules Book, the amendments are included in the rule book as a separate supplement rather than within the main body of the publication.

1. Return for Questionable Transaction

Before adoption of this amendment, an RDFI could return an ACH entry for any reason, except as otherwise provided in Article Three, Subsection 3.8.1 (Restrictions on RDFI's Right to Transmit Return Entries) of the Nacha Operating Rules. Defined return reasons included, among others, entries that were deemed unauthorized by the Receiver or those with an invalid account number or no account at the RDFI. If an RDFI wanted to return an entry that did not have a valid account number and appeared to be questionable, suspicious, or anomalous in some way, the RDFI did not have a defined return reason code to communicate this information to the ODFI and Originator. Nacha guidance allowed RDFIs to use R17 to return questionable transactions that would otherwise be returned using a standard administrative return reason (R03—No Account/Unable to Locate Account or R04—Invalid Account Number Structure). However, none of these options enabled an ODFI or its Originator to differentiate questionable transactions from other routine account number errors.

Under the Return for Questionable Transaction rule, RDFIs are able (but not required) to use Return Reason Code R17—File Record Edit Criteria to indicate that the RDFI believes the entry containing invalid account information was initiated under questionable circumstances. This use of R17 is optional at the discretion of the RDFI. Those RDFIs that elect to use R17 for this purpose are required to use the description ''QUESTIONABLE'' in the Addenda Information field of the return. This description in an R17 return differentiates returns that appear to be suspicious to the RDFI from those due to routine account number issues.

This rule became effective on June 21, 2019. We are proposing to accept this amendment, which may give agencies greater insight into transactions that are returned because they are suspicious or questionable.

2. Supplementing Fraud Detection Standards for WEB Debits

Under existing rules, Originators of internet-initiated (WEB) debit entries must use a ''commercially reasonable fraudulent transaction detection system'' to screen WEB debits for fraud. This requirement is intended to help prevent fraudulent payments from being introduced into the ACH Network, and to help protect RDFIs from posting fraudulent or otherwise incorrect or unauthorized payments.

With the implementation of the Supplementing Fraud Detection Standards for WEB Debits rule, the current screening requirement will be enhanced to make it explicit that ''account validation'' is part of a ''commercially reasonable fraudulent transaction detection system.'' The supplemental requirement will apply to the first use of an account number, or changes to the account number. For existing WEB debit authorizations, the rule will be effective on a going forward basis. Originators will have to perform account validations as there are updates to account numbers in existing authorizations.

Nacha's rule will become effective on March 19, 2021. We are proposing to

accept this rule, which can be expected to reduce unauthorized debits originated by agencies and resulting fraud losses to the government. However, the implementation of account validation will be costly for the government due to the need for systems changes, program changes at originating Federal agencies, and transactional fees for validation services incurred for the origination of WEB debits. Acceptance of the rule would not only result in significant additional costs to the government in the origination of WEB debits but could also have the unintended consequence of incenting agencies to encourage or restrict the public to use payment methods other than ACH that represent lower cost to the government or offer greater transaction certainty at a comparable cost. An initial assessment indicates the costs for WEB debit origination with account validation would approach the costs for acceptance of payment by debit cards, for example, which provide both account and funds availability validation through the authorization process. Given the anticipated costs of implementation, we are considering delaying the effective date of our acceptance of this Nacha rule change beyond Nacha's March 19, 2021 effective date.

3. Supplementing Data Security Requirements

The existing ACH Security Framework requires Financial Institutions, Originators, Third-Party Service Providers, and Third-Party Senders to establish, implement and update security policies, procedures and systems related to the initiation, processing and storage of ACH entries. These policies, procedures, and systems must protect the confidentiality and integrity of protected information; protect against anticipated threats or hazards to the security or integrity of Protected Information; and protect against unauthorized use of Protected Information that could result in substantial harm to a natural person.

The Supplementing Data Security Requirements rule expands the existing ACH Security Framework to explicitly require large, non-financial institution Originators, Third-Party Service Providers, and Third-Party Senders to protect account numbers used in the initiation of ACH entries by rendering them unreadable when stored electronically. The rule aligns with existing language contained in Payment Card Industry (PCI) requirements, thus industry participants are expected to be reasonably familiar with the manner and intent of the requirement.

The rule applies only to account numbers collected for or used in ACH transactions and does not apply to the storage of paper authorizations. The rule also does not apply to depository financial institutions when acting as internal Originators, as they are covered by existing Federal Financial Institutions Examination Council (FFIEC) and similar data security requirements and regulations.

The amendment has a phased implementation period, with the following effective dates:

- Phase 1: Nacha Operating Rules language will become effective on June 30, 2020. Any Originator, Third-Party Service Provider, or Third-Party Sender that originates six million or more ACH transactions in calendar year 2019 will need to be compliant by June 30, 2020.
- Phase 2: Nacha Operating Rules language will become effective on June 30, 2021. Any Originator, Third-Party Service Provider, or Third-Party Sender that originates two million or more ACH transactions in calendar year 2020 will need to be compliant by June 30, 2021.

Going forward after calendar year 2020, any Originator, Third-Party Service Provider, or Third-Party Sender that originates two million or more ACH transactions in any calendar year will need to be compliant with the rule by June 30 of the following calendar year.

Fiscal Service supports the expansion of existing security requirements to require large non-financial institution Originators to protect account numbers used to initiate ACH transactions by rendering them unreadable while stored electronically. We are proposing to accept this amendment.

4. ACH Rules Compliance Audit Requirements

Effective January 1, 2019, Nacha consolidated all requirements for an annual rules compliance audit within one section of the Nacha Operating Rules. Prior to the rule change, the general obligation for Participating Depository Financial Institutions (and certain Third-Party Service Providers and Third-Party Senders) to conduct an audit was located within Article One, Section 1.2.2 (Audits of Rules Compliance). However, the details pertaining to that audit obligation were separately located within Appendix Eight (Rules Compliance Audit Requirements). This amendment retained and combined the core audit obligation with the general administrative requirements for completion of such an audit into Article One of the Nacha Operating Rules.

Under 31 CFR 210.2(d), the rule compliance audit requirements are not applicable to Federal agencies. We are therefore proposing not to adopt this amendment.

5. Minor Rules Topics

These amendments change five specific areas of the Nacha Operating Rules to address minor issues. Minor changes to the Nacha Operating Rules have little-to-no impact on ACH participants and no significant economic impact. Nacha's minor rule amendments became effective on January 1, 2019.

i. ACH Operator Edits

The ACH Operator Edits amendment modifies edit criteria to permit ACH Operators to ''pend'' files as an alternative to rejecting files under various error conditions, primarily related to duplicate file detection. The rule incorporates language to clarify that ACH Operator edits defined within Appendix Two of the Nacha Operating Rules represent minimum standards required by the Nacha Operating Rules, and that additional edits can be adopted by each ACH Operator as part of its service agreement with its customers.

We are proposing to accept this amendment.

ii. Clarification of Telephone-Initiated Entry (TEL) Authorization Requirements

This amendment clarifies that the general rules governing the form of authorization for all consumer debits apply to the authorization of TEL entries, including the obligation to include revocation language. Only Accounts Receivable (ARC), Back Office Conversion (BOC), Point-of-Purchase (POP), and Re-presented Check (RCK) entries are explicitly exempted from the requirement to include revocation language in the authorization. The Clarification of TEL Authorization Requirements rule also incorporates a reference that TEL entries are consumer debits only, consistent with the language for other consumer debits. We are proposing to accept this amendment.

iii. Clarification of RDFI Obligation To Return Credit Entry Declined by Receiver

This rule change reflects pre-existing practices regarding circumstances under which an RDFI is, or is not, obligated to return a credit entry that has been declined by a Receiver. The Clarification of RDFI Obligation to Return Credit Entry Declined by Receiver rule expressly identifies specific conditions under which the RDFI is excused from its obligation to return a credit:

—There are insufficient funds available to satisfy the return, including due to any third party lien or security interest.
—The return is prohibited by legal requirements.
—The RDFI itself has a claim against the proceeds of the credit entry, including by offset, lien, or security interest.

The rule change also modifies the rule language to refer to an entry being ''declined'' (rather than ''refused'') by the Receiver.

We are proposing to accept this amendment.

iv. Clarification on Reinitiation of Return Entries

This amendment is an editorial change to the language of the general rule on Reinitiated Entries to clarify the intent of the Rules that reinitiation is limited to two times.

We are proposing to accept this amendment.

v. Clarification on RDFI Liability Upon Receipt of a Written Demand for Payment

This amendment contains editorial changes regarding conditions under which an RDFI may return a Reclamation Entry or reject a Written Demand for Payment. These changes also clarify that an RDFI may reject a Written Demand for Payment only if it was not properly originated by the ODFI.

We are proposing to accept this amendment.

D. Differentiating Unauthorized Return Reasons

On April 12, 2019, Nacha Voting Membership approved Ballot #1–2019: Differentiating Unauthorized Return Reasons. The rule repurposes an existing, little-used return reason code (R11) that will be used when a receiving customer claims that there was an error with an otherwise authorized payment. Currently, return reason code R10 is used as a catch-all for various types of underlying unauthorized return reasons, including some for which a valid authorization exists, such as a debit on the wrong date or for the wrong amount. In these types of cases, a return of the debit still should be made, but the Originator and its customer (the Receiver) might both benefit from a correction of the error rather than the termination of the origination authorization. The use of a distinct return reason code (R11) enables a return that conveys this new meaning of ''error'' rather than ''no authorization.''

The rule becomes effective in two phases. On April 1, 2020, the re-purposed return code becomes effective, and financial institutions will use it for its new purpose. A year later, on April 1, 2021, the re-purposed return code will become covered by the existing Unauthorized Entry Fee.

We are proposing to accept this amendment.

E. Actual or Constructive Knowledge of Death

31 CFR part 210 Subpart B governs the reclamation of post-death Federal benefit payments from financial institutions. Under Subpart B, both agencies and RDFIs have obligations, rights and liabilities that are triggered by actual or constructive knowledge of the death or incapacity of a recipient or death of a beneficiary. See § 210.10(c), (d); § 210.11(a). An agency that initiates a request for a reclamation must do so within 120 calendar days after the date that the agency first has actual or constructive knowledge of the death or legal incapacity of a recipient or the death of a beneficiary. However, the definition of ''actual or constructive'' knowledge for this purpose is not explicitly addressed in the definition at § 210.2(b), which refers only to RDFIs.

Fiscal Service is proposing to revise the definition of ''actual or constructive knowledge of death'' at 31 CFR 210.2(b) to apply the definition to agencies as well as RDFIs. In addition, we are proposing to add a sentence to the definition to address a specific situation that has arisen in recent years in which agencies sometimes stop recurring payments to a recipient and, many months or years after stopping the payments, initiate a reclamation. As revised, § 210.2(b) would require an agency that stops certifying recurring payments to a recipient because it has reason to believe that the recipient is deceased to investigate and determine whether to initiate a reclamation within 120 days following the first missed payment date. An agency may receive information or otherwise have reason to believe that a recipient is deceased before it takes action to stop payments. However, we believe that the first missed payment date preceding the initiation of a reclamation is the most apparent indicator that the agency has information of a recipient's death that is sufficiently reliable to warrant stopping payments. Accordingly, the phrase ''the time [the agency] stops certifying recurring payments to a recipient'' refers to the first missed payment date.

The proposed language would not generally apply to or affect situations in which agencies stop payments due to fraud or loss of entitlement because in most of those cases agencies would not be initiating a reclamation. In addition, the proposed language would not generally affect situations in which an agency stops payments due to a mistaken belief that the recipient was deceased, because those payments would be reinitiated upon discovery of the mistake. Moreover, in the event that an agency initiates a reclamation more than 120 days after stopping payments and can prove that it stopped payments for a reason other than actual or constructive knowledge of death, the agency can present evidence to rebut the presumption of knowledge, in which case the 120-day deadline would not be triggered by the date the agency stopped payments.

Agencies have indicated that sometimes they have difficulty obtaining definitive proof of death (*i.e.,* a death certificate) within 120 days of receiving constructive knowledge of death, and that therefore they may wait for a protracted period of time before initiating a reclamation. However, the legal standard applicable to agencies initiating a reclamation is not receipt of a death certificate (actual knowledge), but actual or constructive knowledge. We request comment on this proposal, including whether the proposed revisions to § 210.2(b) are clear.

III. Section-by-Section Analysis

In order to incorporate in Part 210 the Nacha Operating Rule changes that we are accepting, we are replacing references to the 2016 Nacha Rules & Guidelines book with references to the 2019 Nacha Operating Rules & Guidelines book. The Nacha Operating Rule amendment that we are not proposing to incorporate is a modification to the audit compliance provisions of the Nacha Operating Rules, which are already excluded under Part 210. Other than replacing the references to the 2016 Nacha Operating Rules & Guidelines book, no change to Part 210 is necessary to exclude this amendment.

§ 210.2(b)

We are proposing to amend the definition of ''actual or constructive knowledge'' in order to clarify that the definition applies to agencies as well as to RDFIs. We are also proposing to add a sentence to the definition to address situations in which agencies stop recurring payments to a recipient and subsequently initiate a reclamation. Under the revised definition, an agency is presumed to have constructive knowledge of death or incapacity at the time it stops certifying recurring payments to a recipient if the agency (1) does not re-initiate payments to the

recipient and (2) subsequently initiates a reclamation for one or more payments made to the recipient. The presumption created under the definition is rebuttable in cases where an agency can demonstrate that it stopped certifying recurring payments to a recipient for a reason other than death.

§ 210.2(d)

We are proposing to amend the definition of ''applicable ACH Rules'' at § 210.2(d) by replacing the reference to Nacha's 2016 Operating Rules & Guidelines with a reference to the ACH Rules with an effective date on or before June 30, 2021, as published in ''2019 Nacha Operating Rules & Guidelines'' and supplements thereto. We are proposing to delete the reference to Appendix Ten in subparagraph (1) because Appendix Eight is being removed in its entirety from the 2019 Rules Book, and Appendices Nine and Ten are being renumbered as Appendices Eight and Nine, respectively. We are proposing to delete subparagraph (7), which relates to the government's original adoption of Same Day ACH in 2017, because it was in effect only until September 15, 2017, and is now obsolete.

§ 210.3(b)

We are proposing to amend § 210.3(b) by replacing the references to the 2016 Nacha Operating Rules & Guidelines with references to a 2019 Nacha Operating Rules & Guidelines.

§ 210.6

We are proposing to amend paragraph (g) by replacing the reference to the 2016 Nacha Operating Rules & Guidelines with a reference to a 2019 Nacha Operating Rules & Guidelines.

§ 210.10(b)

We are proposing to amend § 210.10(b) to state that an agency is presumed to have constructive knowledge of death or incapacity at the time it stops certifying recurring payments to a recipient if the agency (1) does not re-initiate payments to the recipient and (2) subsequently initiates a reclamation for one or more payments made to the recipient.

IV. Incorporation by Reference

In this rule, Fiscal Service is proposing to incorporate by reference the 2019 Nacha Operating Rules & Guidelines book. The Office of **Federal Register** (OFR) regulations require that agencies discuss in the preamble of a proposed rule ways that the materials the agency proposes to incorporate by reference are reasonably available to interested parties or how it worked to make those materials reasonably available to interested parties. In addition, the preamble of the proposed rule must summarize the material. 1 CFR 51.5(a). In accordance with OFR's requirements, the discussion in the **SUPPLEMENTARY INFORMATION** section summarizes the 2019 Nacha Operating Rules. Financial institutions utilizing the ACH Network are bound by the Nacha Operating Rules and have access to the Nacha Operating Rules in the course of their everyday business. The Nacha Operating Rules are available as a bound book or in online form from Nacha, 2550 Wasser Terrace, Suite 400, Herndon, Virginia 20171, tel. 703–561–1100, *info@nacha.org.*

V. Procedural Analysis

Request for Comment on Plain Language

Executive Order 12866 requires each agency in the Executive branch to write regulations that are simple and easy to understand. We invite comment on how to make the proposed rule clearer. For example, you may wish to discuss: (1) Whether we have organized the material to suit your needs; (2) whether the requirements of the rule are clear; or (3) whether there is something else we could do to make the rule easier to understand.

Regulatory Planning and Review

The proposed rule does not meet the criteria for a ''significant regulatory action'' as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

Regulatory Flexibility Act Analysis

It is hereby certified that the proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule imposes on the Federal government a number of changes that Nacha has already adopted and imposed on private sector entities that utilize the ACH Network. The proposed rule does not impose any additional burdens, costs or impacts on any private sector entities, including any small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)* is not required.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that the agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. We have determined that the proposed rule will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, we have not prepared a budgetary impact statement or specifically addressed any regulatory alternatives.

List of Subjects in 31 CFR Part 210

Automated Clearing House, Electronic funds transfer, Financial institutions, Fraud, and Incorporation by reference.

For the reasons set out in the preamble, we propose to amend 31 CFR part 210 as follows:

PART 210—FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 5 U.S.C. 5525; 12 U.S.C. 391; 31 U.S.C. 321, 3301, 3302, 3321, 3332, 3335, and 3720.

■ 2. In § 210.2, revise paragraphs (b) and (d) to read as follows:

§ 210.2 Definitions.

* * * * *

(b) Actual or constructive knowledge, when used in reference to an RDFI's or agency's knowledge of the death or incapacity of a recipient or death of a beneficiary, means that the RDFI or agency received information, by whatever means, of the death or incapacity and has had a reasonable opportunity to act on such information or that the RDFI or agency would have learned of the death or incapacity if it had followed commercially reasonable business practices. For purposes of Subpart B, an agency is presumed to have constructive knowledge of death or incapacity at the time it stops certifying recurring payments to a recipient if the agency (1) does not re-initiate payments to the recipient and (2) subsequently initiates a reclamation for one or more payments made to the recipient.

* * * * *

(d) *Applicable ACH Rules* means the ACH Rules with an effective date on or before June 30, 2021, as published in ''2019 Nacha Operating Rules & Guidelines: A Complete Guide to Rules

Governing the ACH Network'' and supplements thereto, except:

(1) Sections 1.2.2, 1.2.3, 1.2.4, 1.2.5 and 1.2.6; Appendix Seven; Appendix Eight; and Appendix Nine (governing the enforcement of the ACH Rules and claims for compensation);

(2) Section 2.10 and Section 3.6 (governing the reclamation of benefit payments);

(3) The requirement in Appendix Three that the Effective Entry Date of a credit entry be no more than two Banking Days following the date of processing by the Originating ACH Operator (see definition of ''Effective Entry Date'' in Appendix Three);

(4) Section 2.2 (setting forth ODFI obligations to enter into agreements with, and perform risk management relating to, Originators and Third-Party Senders) and Section 1.6 (Security Requirements);

(5) Section 2.17.2.2–2.17.2.6 (requiring reduction of high rates of entries returned as unauthorized); and

(6) The requirements of Section 2.5.8 (International ACH Transactions) shall not apply to entries representing the payment of a Federal tax obligation by a taxpayer; and

* * * * *

■ 3. In § 210.3, revise paragraph (b), redesignate paragraph (c) as paragraph (d), and add new paragraph (c) to read as follows:

§ 210.3 Governing law.

* * * * *

(b) *Incorporation by reference.* Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section the Service must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Bureau of the Fiscal Service, 401 14th Street SW, Room 400A, Washington, DC 20227, 202–874–6680, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(1) NACHA—The Electronic Payments Association, 2550 Wasser Terrace, Suite 400, Herndon, Virginia 20171, tel. 703–561–1100, *info@nacha.org.*

(i) ''2019 NACHA Operating Rules & Guidelines: A Complete Guide to Rules Governing the ACH Network,'' copyright 2019. IBR approved for § 210.6

ii [Reserved]

2 [Reserved]

(c) Any amendment to the applicable ACH Rules approved by Nacha after publication of the 2019 Nacha Operating Rules & Guidelines shall not apply to Government entries unless the Service expressly accepts such amendment by publishing notice of acceptance of the amendment to this part in the **Federal Register**. An amendment to the ACH Rules that is accepted by the Service shall apply to Government entries on the effective date of the rulemaking specified by the Service in the **Federal Register** notice expressly accepting such amendment.

* * * * *

■ 4. In § 210.6, revise paragraph (g) to read as follows:

§ 210.6 Agencies.

* * * * *

(g) *Point-of-purchase debit entries.* An agency may originate a Point-of-Purchase (POP) entry using a check drawn on a consumer or business account and presented at a point-of-purchase. The requirements of the 2019 Nacha Operating Rules and Guidelines, incorporated by reference, see § 210.3(b)(2), shall be met for such an entry if the Receiver presents the check at a location where the agency has posted the notice required by the ACH Rules and has provided the Receiver with a copy of the notice.

* * * * *

■ 5. In § 210.10, revise paragraph (b) to read as follows:

§ 210.10 RDFI liability.

* * * * *

(b) Actual or constructive knowledge, when used in reference to an RDFI's or agency's knowledge of the death or incapacity of a recipient or death of a beneficiary, means that the RDFI or agency received information, by whatever means, of the death or incapacity and has had a reasonable opportunity to act on such information or that the RDFI or agency would have learned of the death or incapacity if it had followed commercially reasonable business practices. For purposes of Subpart B, an agency is presumed to have constructive knowledge of death or incapacity at the time it stops certifying recurring payments to a recipient if the agency (1) does not re-initiate payments to the recipient and (2) subsequently initiates a reclamation for one or more payments made to the recipient.

* * * * *

Dated: December 11, 2019.

David A. Lebryk,

Fiscal Assistant Secretary.

[FR Doc. 2019–27261 Filed 1–2–20; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0933]

RIN 1625–AA87

Security Zone; Cooper River; Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary security zone on certain navigable waters of the Cooper River within a 500-yard radius of the South Carolina State Port Authority Cruise Ship Terminal in Charleston, SC during a visit by the Commandant of the United States Coast Guard. This action is necessary to protect personnel from potential hazards and security risk associated with the Commandant's speaking engagement. This proposed rulemaking would prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within the security zone unless authorized by the Captain of the Port Charleston (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before January 21, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–0219–0933 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Chad Ray, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Chad.L.Ray@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security

FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On November 18, 2019, Sector Charleston personnel were notified that the Commandant of the U.S. Coast Guard will give the State of the Coast Guard Address at the South Carolina State Port Authority Cruise Ship Terminal on the Cooper River in Charleston, SC. The security zone will impact waters of the Cooper River in Charleston, SC. The Captain of the Port Charleston (COTP) has determined that potential hazards associated with the event would be a security concern for participants, spectators, and others on the navigable waters around the event.

Section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)) authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not being able to facilitate a full 30 day comment period with respect to this proposed rule because the Coast Guard did not receive necessary information regarding the Commandant of the United States Coast Guard's visit near the South Carolina State Port Authority Cruise Ship Terminal in Charleston, SC until November 18, 2019. As a result, the Coast Guard did not have sufficient time to both publish an NPRM and to maintain a 30 day comment period prior to the events. There is sufficient time to allow for some amount of comment period which the Coast Guard is facilitating. A full 30 day comment period would result in a delay in the effective date of this rule and such a delay would be contrary to the public interest because immediate action is needed to necessary to protect personnel from potential hazards and security risk associated with the Commandant's speaking engagement.

The purpose of this rulemaking is to ensure the security of persons, vessels, and the marine environment before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of the Rule

The COTP is proposing to establish a temporary security on the waters of the Cooper River in Charleston, South Carolina during the State of the Coast Guard Address from 12:00 p.m. to 2:00 p.m. on February 20, 2020. The security zone would cover all navigable waters within a 500-yard radius of the South Carolina State Port Authority Cruise Ship Terminal in Charleston, SC. The duration of the zone is intended to ensure the security of persons, vessels, and these navigable waters before, during, and after the scheduled address. No vessels or person would be permitted to enter the security zone without obtaining permission from the COTP or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative. The COTP will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on: (1) Persons and vessels may enter, transit through, anchor in, or remain within the regulated area during the enforcement periods if authorized by Sector Charleston COTP or a designated representative; (2) vessels not able to enter, transit through, anchor in, or remain within the regulated area without authorization from Sector Charleston COTP or a designated representative may operate in the surrounding areas during the enforcement period; (3) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners; and (4) the regulated area will be limited in time, scope, and only impact small designated areas of the Cooper River.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a two hour security zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the Cooper River during the State of the Coast Guard Address by Commandant of the U.S. Coast Guard. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a temporary § 165.T07–0933 to read as follows:

§ 165.T07–0933 Security Zone; Cooper River, Charleston, SC.

(a) Location. All waters of the Cooper River within a 500-yard radius the South Carolina State Port Authority Cruise Ship Terminal in Charleston, SC.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the COTP Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This rule will be enforced from 12:00 p.m. to 2:00 p.m. on February 20, 2020.

Dated: December 26, 2019.

J.W. Reed,

Captain, U.S. Coast Guard Captain of the Port, Charleston.

[FR Doc. 2019–28388 Filed 1–2–20; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0666; FRL–10003–76—Region 7]

Air Plan Approval; Nebraska; Lincoln-Lancaster County Health Department (LLCHD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the State Implementation Plan (SIP) submitted by the State of Nebraska that addresses the authority of the Lincoln-Lancaster County Health Department (LLCHD). This proposed action will amend the Nebraska SIP by removing a portion of the SIP that addresses the authority of LLCHD regarding the Prevention of Significant Deterioration (PSD) Program; specifically: Article 2. Section 19. Prevention of Significant Deterioration of Air Quality (PSD) Lincoln-Lancaster County Health Department (LLCHD). This SIP revision will have no impact to air quality and eliminate confusion regarding the authority to issue PSD permits in Lancaster County.

DATES: Comments must be received on or before February 3, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0666 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7714; email address *stone.william@epa.gov.*

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

Table of Contents

I. Written Comments
II. What is being addressed in this document?
III. Have the requirements for approval of a SIP revision been met?
IV. What action is the EPA taking?
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0666, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve a revision to Nebraska's SIP received from the State of Nebraska on July 23, 2019. Specifically, the EPA is proposing to amend the Nebraska SIP by removing a portion of the SIP as follows: Article 2. Section 19. Prevention of Significant Deterioration of Air Quality (PSD) Lincoln-Lancaster County Health Department (LLCHD).

On February 14, 1996, the EPA approved SIP revisions submitted by the State of Nebraska on behalf of the LLCHD (61 FR 5699, February 14, 1996). This submittal included a complete copy of the state's air regulations that LLCHD had adopted as its own. Although the LLCHD's adoption of the State's rules included the PSD regulation, the action by the EPA did not create or acknowledge a PSD program separate and apart from the State of Nebraska's EPA-approved PSD program.

This incorporation by reference of the LLCHD Air Pollution Control Program, specifically ARTICLE 2. SECTION 19. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY has created confusion about the authority to issue PSD permits in Lancaster County, Nebraska.

PSD authority in Lancaster County, Nebraska was addressed in three documents around the time of this SIP action by both EPA and the State of Nebraska. Those documents are (1) the preamble to the direct final rule, (2) the Technical Support Document (TSD) that accompanied the proposal, and (3) a letter from the Nebraska Department of Environmental Quality (NDEQ), now the Nebraska Department of Environment and Energy (NDEE), to EPA Region 7 dated *November 9, 1995.* PSD authority in Lancaster County, Nebraska was also addressed in a delegation letter from NDEQ to LLCHD. Each of these documents is available as part of this docket.

Per the preamble to the direct final rule (61 FR 5700, February 14, 1996), the EPA herein notes that only the State program includes an approved part 51 program to issue PSD permits.

On Page 5 of the TSD EPA states:

> *[A]lthough the local agencies' adoption of the state's rule include Prevention of Significant Deterioration (PSD) regulations, the EPA herein notes that only the state program includes an approved part 51 program to issue PSD permits. As part of the Class II program, the local agencies will act as agents of the state to administer and enforce requirements applicable under PSD, although only the state will actually issue these permits. This is identified in letter from NDEQ dated November 9, 1995.* (TSD for Nebraska SIP revisions, November 20, 1995).

In a letter from NDEQ to EPA Region 7, referred to in the TSD above, NDEQ states:

> *[A]lthough the local agencies adoption of the Title 129 includes PSD regulations which were submitted as part of the request for approval, only the state program includes an approved part 51 program to issue PSD permits. As part of the Class II program, the local agencies will act as agents of the state to administer and enforce requirements applicable under PSD, although only the state will actually issue these permits . . .* (Letter from Joe Francis, Assistant Director, NDEQ, to Art Spratlin, EPA Region 7, LLCHD, November 9, 1995).

In a letter from NDEQ to LLCHD dated December 31, 1997, NDEQ responds to LLCHD's request to delegate authority to implement and enforce the PSD program. NDEQ delegates the authority to LLCHD to implement and enforce all provisions of NDEQ title 129 chapter 19 with conditions including:

1. Each PSD permit issued by LLCHD shall state that the permit is an NDEQ permit and is being issued pursuant to this delegation;

2. Each permit issued by LLCHD pursuant to this delegation shall include the following statement immediately above the signature block: Pursuant to the December 31, 1997 Delegation Letter, signed by the Director of the Department of Environmental Quality, the undersigned hereby executes this document on behalf of the director of the department.

3. Each permit issued by LLCHD pursuant to this delegation shall state the permit is being issued pursuant to Title 129—Nebraska Air Quality Regulations (Title 129), Chapter 19, and is subject to all terms and conditions of Title 129 and the Nebraska Revised Statutes;

5. LLCHD shall follow the public participation and decision-making procedures in Title 129, Chapter 19, section 004 and shall transmit documents and notifications to the EPA, as required by section 005, and to the NDEQ;

The December 31, 1997 letter from NDEQ to LLCHD continues with ''If the director of the NDEQ determines that the LLCHD's implementation of the PSD regulations is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part . . .'' (Letter from Randolph Wood, Director, NDEQ to Gregg Wright Interim Director, LLCHD, December 31, 1997).

These documents demonstrate that all PSD permits issued in the State of Nebraska, including those issued in Lancaster County, are issued by the State of Nebraska under title 129, chapter 19 PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY (PSD). The SIP revision being proposed for approval by this action removes a redundant regulation from the SIP and will have no effect on air permitting or air quality in Lancaster County, Nebraska.

III. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided a public comment period for this SIP revision from May 20, 2019 to June 21, 2019, and at the same time, offered an opportunity for a public hearing. No comments or request for public hearing were received.

IV. What action is the EPA taking?

The EPA is proposing to amend the Nebraska SIP by removing LLCHD Article 2. Section 19. Prevention of Significant Deterioration of Air Quality (PSD). The removal of this portion of the SIP will not impact air quality because the regulation duplicates the State's regulation, which applies in the same jurisdiction.

We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described in the proposed amendments to 40 CFR part 52 set forth below, the EPA is proposing to remove provisions of the EPA-Approved Nebraska Regulations from the Nebraska State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Dated: December 23, 2019.

James Gulliford,

Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart–CC Nebraska

§ 52.1420 [Amended]

■ 2. In § 52.1420, amend the table in paragraph (c) by removing the entry ''Section 19 Prevention of Significant Deterioration of Air Quality'' under the headings ''Lincoln-Lancaster County Air Pollution Control Program'', ''Article 2—Regulations and Standards''.

[FR Doc. 2019–28324 Filed 1–2–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 147 and 158

[CMS–9915–N]

RIN 0938–AU04

Transparency in Coverage

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the comment period for the proposed rule entitled, ''Transparency in Coverage,'' that published in the November 27, 2019, issue of the **Federal Register**. The comment period for the proposed rule, which would close on January 14, 2020, is extended 15 days to January 29, 2020.

DATES: The comment period for the proposed rule published November 27, 2019, at 84 FR 65464, is extended. To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 29, 2020.

ADDRESSES: Written comments may be submitted to the addresses specified below. Any comment that is submitted will be shared with the Department of the Treasury (Treasury Department), Internal Revenue Service (IRS) and the Department of Labor (DOL). Please do not submit duplicates.

Comments, including mass comment submissions, must be submitted in one of the following three ways (choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9915–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9915–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Deborah Bryant, Centers for Medicare and Medicaid Services, (301) 492–4293

Christopher Dellana, Internal Revenue Service, (202) 317–5500

Matthew Litton or David Sydlik, Employee Benefits Security Administration, (202) 693–8335

Customer Service Information: Individuals interested in obtaining information from the DOL concerning employment-based health coverage laws may call the Employee Benefits Security Administration (EBSA) Toll-Free Hotline at 1–866–444–EBSA (3272) or visit DOL's website (*http://www.dol.gov/ebsa*). In addition, information from HHS on private health insurance for consumers can be found on the Centers for Medicare & Medicaid Services (CMS) website (*www.cms.gov/cciio*) and information on health reform can be found at *http://www.healthcare.gov.*

SUPPLEMENTARY INFORMATION: All comments will be made available to the public. Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are posted on the internet exactly as received, and can be retrieved by most internet search engines. No deletions, modifications, or redactions will be made to the comments received, as they are public records. Comments may be submitted anonymously.

In commenting, please refer to file code CMS–9915–P. Because of staff and resource limitations, DOL, Department of Health and Human Services (HHS), and the Treasury Department (the Departments) cannot accept comments by facsimile (FAX) transmission.

In the ''Transparency in Coverage'' proposed rule that published in the November 27, 2019 **Federal Register** (84 FR 65464), the Departments solicited public comments on proposals to implement legislative mandates under sections 1311(e)(3) of the Patient Protection and Affordable Care Act (PPACA) and section 2715A of the Public Health Service (PHS) Act. The proposed rules set forth proposed requirements for non-grandfathered group health plans and health insurance issuers offering non-grandfathered health insurance coverage in the individual and group markets to disclose cost-sharing information upon request, to a participant, beneficiary, or enrollee (or his or her authorized representative), including an estimate of such individual's cost-sharing liability for covered items or services furnished by a particular provider. Under the proposed rules, plans and issuers would be required to make such information available on an internet website and, if requested, through non-internet means, thereby allowing a participant, beneficiary, or enrollee (or his or her authorized representative) to obtain an estimate and understanding of the individual's out-of-pocket expenses and effectively shop for items and services. The proposed rules also include proposals to require non-grandfathered plans and issuers offering non-grandfathered health insurance coverage to disclose in-network provider negotiated rates and historical out-of-network allowed amounts through two machine-readable files posted on an internet website, thereby allowing the public to have access to information that can be used to understand health care pricing and potentially dampen the rise in health care spending. HHS also proposed amendments to its medical loss ratio program rules established under section 2718 of the PHS Act to allow issuers offering group or individual health insurance coverage to receive credit in their medical loss ratio calculations for savings they share with enrollees that result from the enrollee's shopping for, and receiving care from, lower-cost, higher-value providers. The comment period for the rule was scheduled to close on January 14, 2019.

Since the publication in the **Federal Register**, there has been considerable interest expressed in the proposed rule, and some stakeholders have requested additional time to review and submit comments. The Departments value stakeholder feedback and want to gather as much information as possible as they consider whether and how to issue final rules. In response to these requests, the Departments are extending the period for submitting comments on the proposed rule to January 29, 2020.

Dated: December 26, 2019.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2019–28290 Filed 12–27–19; 4:15 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 18–89; FCC 19–121; FRS 16316]

Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on actions to address national security threats to networks funded by the Universal Service Fund (USF or the Fund). The Commission concurrently adopted a Report and Order addressing the use of USF support to purchase or obtain any equipment or services produced or provided by a covered company posing a national security threat to the integrity of communications networks or the communications supply chain.

DATES: Comments are due on or before February 3, 2020, and reply comments are due on or before March 3, 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 document, you should advise the contact listed in the following as soon as possible.

ADDRESSES: Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/*.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. The Commission directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to use a table of contents, regardless of the length of their submission. The Commission also strongly encourages parties to track the organization set forth in the Further Notice in order to facilitate its internal review process.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

FOR FURTHER INFORMATION CONTACT: For further information, please contact William Layton, Telecommunications Access Policy Division, Wireline Competition Bureau, at *William.Layton@fcc.gov* or (202) 418–0868.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice in WC Docket No. 18–89, adopted November 22, 2019 and released November 26, 2019. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. It is available on the Commission's website at *https://docs.fcc.gov/public/attachments/FCC-19-121A1.pdf.* The Report and Order and Order that was adopted concurrently with this Further Notice of Proposed Rulemaking (Further Notice) is published elsewhere in the **Federal Register**.

I. Introduction

1. In today's increasingly connected world, safeguarding the security and integrity of America's communications infrastructure has never been more important. Broadband networks have transformed virtually every aspect of the U.S. economy, enabling the voice, data, and internet connectivity that fuels all other critical industry sectors—including our transportation systems, electrical grid, financial markets, and emergency services. And with the advent of 5G—the next generation of wireless technologies, which is expected to deliver exponential increases in speed, responsiveness, and capacity—the crucial and transformative role of communications networks in our economy and society will only increase. It is therefore vital that the Commission protect these networks from national security threats.

2. The Commission has taken a number of targeted steps to protect the nation's communications networks from potential security threats. The Commission builds on these efforts, consistent with concurrent Congressional and Executive Branch actions, and ensure that the public funds used in the Commission's Universal Service Fund are not used in a way that undermines or poses a threat to our national security. Specifically, in the concurrently adopted Report and Order, the Commission adopts a rule that prospectively prohibits the use of USF funds to purchase or obtain any equipment or services produced or provided by a covered company posing a national security threat to the integrity of communications networks or the communications supply chain. In doing so, the Commission initially designates Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE) as covered companies for purposes of this rule and establish a process for designating additional covered companies in the future.

3. The Commission seeks comment on additional actions to address national security threats to USF-funded networks. These include a proposal to require USF recipients that are eligible telecommunications carriers (ETCs) to remove and replace existing equipment and services produced or provided by covered companies. Additionally, the Commission adopts an information collection to help determine the extent to which equipment and services produced or provided by covered

companies exist in our communications networks.

4. Given the Commission's oversight of the USF programs that fund voice and broadband networks and services and its obligation to be responsible stewards of the public funds that subsidize those programs, the Commission has a specific, but important, role to play in securing the communications supply chain. The Commission believes that the steps it takes in this document are consistent with this role, that they must do all it can within the confines of its legal authority to address national security threats, and that the Commission's actions, along with those taken by other Executive Branch agencies, will go far in securing our nation's critical telecommunications infrastructure.

II. Further Notice of Proposed Rulemaking

5. The concurrently adopted Report and Order marks an important step towards securing our nation's telecommunications networks and supply chains from national security threats. At the same time, the Commission recognizes that further steps are needed to secure our communications networks. As such, the Commission proposes to require as a condition on the receipt of any USF support that ETCs not use or agree to not use within a designated period of time, communications equipment or services from covered companies. In addition to conditioning future USF support, the Commission proposes to require ETCs receiving USF support to remove and replace covered equipment and services from their network operations. To mitigate the impact on affected entities, and in particular small, rural entities, the Commission proposes to establish a reimbursement program to offset reasonable transition costs. The Commission proposes to make the requirement to remove covered equipment and services by ETCs contingent on the availability of a funded reimbursement program. The Commission appreciates that many small and rural carriers affected by the Report and Order are already committed to securing the integrity of their networks, and the Commission expects these proposals would facilitate the transition of their equipment and services to safer and more secure alternatives and seek comment on these proposals.

6. The Commission believes sections 201(b) and 254 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. 201(b), 254(b), provides legal authority for these proposals. Section 201(b) authorizes the Commission to ''prescribe such rules as may be necessary in the public interest to carry out the provisions of the Act.'' Section 254(b) further requires the Commission to base its universal service policies on the principles of providing ''[q]uality services . . . at just, reasonable, and affordable rates,'' as well as promoting ''[a]ccess to advanced telecommunications and information services . . . in all regions of the Nation.'' As the Tenth Circuit has explained, ''nothing in the statute limits the FCC's authority to place conditions . . . on the use of USF funds'' that advance the purposes of the universal service programs.

7. Ensuring the safety, reliability, and security of the nation's communications networks is vital not only to fulfilling the purpose of the Act but to furthering the public interest and the provision of quality services nationwide. The continued use of equipment or services produced or provided by an entity that poses a national security threat runs counter to these objectives and threatens the safety, reliability, and security of the nation's critical infrastructure. Conditioning receipt of future USF funding on not using covered equipment and services and requiring the removal and replacement of covered equipment and services will incentivize ETCs to eliminate the security shortcomings potentially present in their current operations.

8. The Commission also believes these proposals are consistent with Congress's direction, under the National Defense Authorization Act for Fiscal Year 2019 (2019 NDAA), Sec. 889(b)(2), 132 Stat. at 1917, to ''prioritize available funding and technical support to assist affected . . . entities to transition from covered communications equipment [as defined by the statute], and to ensure that communications service to users and customers is sustained.'' Section 889(b)(1) read in conjunction with section 889(b)(2) further evidences the intent of Congress to limit the use of Federal funding for the acquisition of covered equipment and services by funding recipients and to incentivize the replacement of covered equipment. The Commission recognizes the USF program is not a loan or grant program *per se* but interpret Congress as intending section 889(b)(1) read in conjunction with section 889(b)(2) as more broadly covering programs like USF that issue funding commitments. Failing to include USF, with annual expenditures of about $8.3 billion for the acquisition and use of communications equipment and services, would seriously undermine the purpose of section 889 of the 2019 NDAA. Section 889(b)(2) specifically directs executive agencies, including the Federal Communications Commission, to prioritize available funding and technical support to assist ''as is reasonably necessary'' businesses, institutions and organizations in transitioning from covered to replacement equipment as a result of the implementation of the prohibition on covered equipment as set forth in section 889(b)(1). The relevant legislative history ''stress[es] the importance of assisting rural communications service providers, anchor institutions, and public safety organizations in replacing covered equipment and associated support services contracts as soon as practicable.''

9. The Commission tentatively concludes that these statutory provisions collectively support the rules proposed herein and seek comment on this position. The Commission also believes they are consistent with Congress's purpose in creating the agency, in part, for ''the national defense'' as stated in Section 1 of the Act, 47 U.S.C. 151. The Commission further asks commenters to identify additional, alternative sources of statutory authority that would support these proposals.

10. *Covered Companies.* The Commission proposes to have the removal and replacement requirement apply to the equipment and services produced or provided by companies designated by the Commission as posing a national security threat pursuant to the process identified in the concurrently adopted Report and Order. The Commission seeks comment on this proposal. The Commission also seeks comment on potential alternatives.

11. *USF Recipients Subject to Requirement and Reimbursement Eligibility.* The Commission proposes to limit the removal and replacement requirement to ETCs. The covered companies initially designated in the Report and Order, Huawei and ZTE, supply equipment and services for fixed and mobile communications networks, cloud-based network solutions, and consumer devices, including Wi-Fi routers, data cards, and smartphones. While these products and services are not limited to use by ETCs, the Commission finds, given its legal authority is tied to the Commission's administration of the USF, the potential replacement burden and available reimbursement funding needed, and the evidence in the record that the primary USF recipients that currently rely on Huawei and ZTE are ETCs, that the

Commission should focus on the networks of ETCs, where there is the greatest concern regarding equipment and services posing a national security threat. Accordingly, the Commission does not propose to subject other USF recipients, like rural health care providers or schools and libraries, to the prohibition on the receipt of USF funds nor to the removal and replacement requirement. The Commission seeks comment on this approach. How should the Commission address service providers that are not currently ETCs? Should the Commission's proposed prohibition and removal and replacement requirements apply to those carriers that are designated ETCs in the future? If so, how? And should the Commission allow otherwise qualifying carriers to become ETCs for the sole purpose of participating in any removal and replacement fund? Would such ETC designation be necessary if, for example, Congress appropriated funds for a reimbursement program that was not tied to the Fund?

12. The Commission proposes making entities subject to the prohibition and removal requirement eligible for any replacement cost reimbursement program. In addition, the Commission seeks comment on whether other ''businesses, institutions, and organizations'' affected by section 889(b)(1)'s prohibitions should also be able to seek available funding or technical assistance from the Commission, even if they do not participate in any of the four universal service programs. Section 889(b)(1) states that executive agencies may not ''obligate or expend loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems'' ''that use[ ] covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.'' In particular, the Conference Report's note accompanying the 2019 NDAA discusses providing assistance to ''rural communications service providers, anchor institutions, and public safety organizations.'' If the Commission provides cost reimbursement through a USF mechanism and include entities that are not current USF recipients, the Commission proposes that any new entities would need to be eligible under existing USF requirements, such as being willing (and eligible) to be designated an ETC by the relevant commission for at least one year after first receiving funding. (A provider must be designated as an ETC to receive high-cost support. Similarly, there are restrictions on eligibility of schools, libraries, and rural health care facilities for the E-Rate and Rural Health Care programs.) The Commission seeks comment on this proposal. Are there any other limits the Commission should use for defining or identifying such an affected entity?

13. The Commission believes that ETCs are the most likely to rely on USF-supported prohibited equipment and that the potential burden and available funding needed to cover all non-ETC USF recipients may be quite high. At the same time, the Commission recognizes that limiting its proposed removal and replacement requirement to ETCs runs some risk that non-ETC USF recipients may keep otherwise prohibited equipment in USF-supported networks. Recognizing the Commission's need to balance risks and benefits, it seeks comment on whether to expand its proposed removal and replacement requirement to all USF recipients, rather than limit it to only ETCs. That is, should the Commission expand this proposed requirement to any entity receiving universal service support?

14. Or should the Commission go further and prohibit the use of equipment or services from covered companies in communications networks more broadly? The Commission seeks comment on whether the Commission can and should prohibit any communications company from purchasing, obtaining, maintaining, improving, modifying, or otherwise supporting any equipment or services produced or provided by a covered company posing a national security threat to the integrity of communications networks or the communications supply chain, regardless of whether they use universal service support to do so. If so, what penalties would apply to non-USF recipients for non-compliance? The Commission also seeks comment on whether it can and should similarly expand the proposed removal and replacement requirement to non-USF recipients. What adjustments would the Commission need to make to its proposed requirement to implement such an expansion? For example, should the Commission also include such companies in a reimbursement program and how would this affect the burden and availability of reimbursement funding needed? Alternatively, should the Commission allow non-USF recipients to voluntarily participate in a reimbursement program, and if so, could it do so absent legislation? Should the Commission also require non-USF recipients to comply with an information collection similar to the one it adopts in this document for ETCs, and if so, could it do so absent legislation? And what would be the Commission's source of legal authority for applying a prohibition on covered equipment and services and its proposed removal and replacement requirement to non-USF recipients absent new congressional legislation?

15. Would the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. 229(a), be one potential source of such authority, and if so, what providers would be covered and how would the Commission need to adjust a prohibition on covered equipment and services and its proposed removal and replacement requirement to account for reliance on that authority? Would section 103(b)(1) of CALEA, 47 U.S.C. 1002(b)(1), apply—if at all—if the Commission were to expand its rules beyond the expenditure of federal funds? For example, in 2005, the Commission interpreted the scope of CALEA to also include facilities-based ISPs and interconnected VoIP service providers. How should the Commission consider these kinds of entities with respect to a prohibition on covered equipment and services and a removal and replacement requirement?

16. *Equipment and Services Requiring Removal and Replacement.* In the concurrently adopted Report and Order, the Commission determined a blanket prohibition on USF funding for all equipment and services from covered companies posing a national security risk was easier to administer and would provide more regulatory certainty for USF recipients than a narrower prohibition aimed at specific types of equipment and services. The prohibition includes not only finished products by a covered company but also products containing specific components or sub-parts produced or provided by a covered company. The Commission proposes to use the same scope to identify equipment and services subject to a removal and replacement requirement. The Commission seeks comment on this proposal.

17. Including all equipment and services from covered companies creates a bright line for ETCs to make determinations for removal and replacement. This approach would also include equipment and services covered by the 2019 NDAA, which has a narrower scope, covering equipment and services that are either a ''substantial or essential component of

any system, or as critical technology as part of any system.'' Section 889(b)(3) of the 2019 NDAA also excludes from its definition of covered telecommunications equipment any equipment ''that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.'' Although the Commission recognizes using the 2019 NDAA definition would limit the replacement burden, a broader requirement increases the likelihood of preventing engineered, backdoor access to the network and should be easier for ETCs to implement and for the Commission to enforce. The Commission seeks comment on this proposal and the benefits and costs of a broader requirement.

18. In the concurrently adopted Report and Order, the Commission prohibits the use of USF to purchase or obtain any equipment or services produced or provided by a covered company. As the FCC has recognized on multiple occasions, the Lifeline program supports services, not end-user equipment. However, some carriers participating in the Lifeline program offer free handsets to eligible consumers as part of their offering. Carriers' websites further indicate that some Lifeline ETCs offer free handsets that are manufactured by the covered companies. The Commission seeks comment on whether the distribution of such handsets to Lifeline-eligible consumers poses a risk to the integrity of Lifeline consumers' communications.

19. Alternatively, if the Commission relies on the 2019 NDAA as a source of authority for these proposed actions, should the Commission then tailor the removal and replacement requirement to more closely adhere to the scope of equipment and services identified in the 2019 NDAA? Would limiting replacement to the equipment and services covered by the 2019 NDAA affect the estimated cost in a meaningful way? In light of the burdens that replacing existing network equipment will impose on carriers receiving USF support, how should the Commission clearly define and identify this type of equipment in order to assist applicants and potential auditors in determining how to comply with the proposed rule? Should the Commission use or reference any definitions developed by the Executive Branch for purposes of federal procurement compliance with the 2019 NDAA? Instead, should the Commission or USAC develop a list of equipment and services that must be removed and replaced? Should the Commission specifically limit the removal and replacement to only covered equipment and services embedded or deployed in an ETC's network? To what extent should the requirement apply to the networks of ETC affiliates?

20. *Eligible Replacement Costs.* The Commission proposes to make available reasonable replacement costs for the equipment and services produced or provided by covered companies, and it seeks comment on this proposal. The Commission also seeks comment on what costs associated with replacing such equipment and services are reasonable and what types of restrictions to place on equipment and service replacement costs in order to manage limited USF resources effectively and guard against waste, fraud, and abuse. How should the Commission determine the reasonableness of the costs to replace the covered equipment or services? Should USF recipients be allowed to seek reimbursement for technology upgrades to their networks while transitioning from covered equipment and services to replacement equipment and services? To best target available funds, should the Commission prioritize payments for the replacement of certain equipment and services that are identified as posing the greatest risk to the security of networks, and what categories of equipment and services should that prioritization include? If so, how should the Commission prioritize such funds? What additional administrative burdens would such prioritization require and what impact would it have on how quickly the Commission could remove all problematic equipment and services from our communications networks?

21. The Commission has made significant strides towards closing the digital divide and encouraging the deployment of the next generation of equipment and services. Would the Commission's proposal require ETCs replacing equipment and services to replicate the functionality of that equipment, even if the equipment or services is outdated? Could requiring the replacement of aging equipment that endangers our national security aid the Commission's efforts to close the digital divide and encourage the migration to 5G technology in rural America? The Commission recognizes the practicality that USF recipients, such as wireless carriers using older technologies, like 3G equipment, may not be able to find functionally-equivalent equipment available in the marketplace. The Commission seeks comment on how to encourage both the goal of closing the digital divide and the need to prevent wasteful spending on outdated equipment while reducing the national security risks in our Nation's networks operated and used by ETCs.

22. As discussed in the concurrently adopted Report and Order, some parties allege that they purchased equipment from covered companies because of significant price savings compared to equipment from other vendors. The Commission seeks comment on this claim and, to the extent it is accurate, what the Commission and the private sector can do to address it. Are there measures that non-covered companies can undertake to offer lower prices to carriers seeking to replace their insecure equipment? Can carriers create joint purchasing programs to reduce their equipment costs? To what extent are the security problems discussed in this proceeding related to the lack of U.S.-based equipment vendors? Are there U.S.-supplied alternatives or replacements for products from the covered companies? Finally, the Commission seeks comment on ways it can ensure that, going forward, ETCs obtain and rely on equipment only from trusted vendors.

23. During the Commission's broadcast incentive auction, the Commission developed a standard to reimburse costs reasonably incurred by an entity in order to relocate or otherwise modify its facility, using a comparable facilities reimbursement standard for all eligible entities. The Commission's spectrum incentive auction incentivized incumbent broadcast television licensees to relinquish or relocate from their bands for the repurposing and re-licensing of the spectrum via auction for, among other things, commercial mobile use. As part of that process, the Commission established a reimbursement program to compensate relocated broadcasters for costs ''reasonably incurred'' in relocating to new channels assigned in the repacking process. In that proceeding, the Commission decided to not provide reimbursement for new, optional features that are not already present in the equipment being replaced, but because some stations may not have been able to replace older, legacy equipment in the marketplace, the Commission would reimburse for some equipment that includes improved functionality. Should the Commission adopt a similar comparability standard for replacement costs here? Should the Commission allow reimbursement for non-comparable equipment or services that are safer or more secure than the replaced equipment or services due to enhanced safety features, more robust encryption, more frequent security updates, and so forth? What are the cost implications of allowing covered

equipment or services to be replaced with upgraded technologies and what limits or standards should the Commission place on these upgrades? Are there efficient ways to develop estimates of replacement costs that could provide guidance to USF recipients required to make these replacements? If the Commission does elect to allow USF recipients to upgrade their equipment and receive reimbursement, what type of showing should it require them to make to support their reimbursement requests for eligible replacement costs? The Commission also seeks comment on whether the Commission's Wireline Competition Bureau or USAC should be responsible for reviewing and acting on reimbursement requests.

24. The Commission also seeks comment on any other issues surrounding the cost to comply with its proposed rule of requiring replacement of covered equipment and services by ETCs. For instance, should the Commission adopt a cut-off date for equipment and services eligible for reimbursement as currently being considered in the United States 5G Leadership Act of 2019, S. 1625, 116th Cong. (2019)? Should equipment and services replaced after the effective date of the accompanying *Report and Order* but before the availability of a reimbursement program be eligible for reimbursement? Should the Commission require equipment to be retired and scrapped? To provide good incentives for carriers in selling scrapped equipment, should the Commission allow them to keep some fraction, *e.g.,* one third of the sale value? How should the Commission also factor in associated business costs, such as existing loans or sped-up depreciation? Using the Commission's broadcast incentive auction for comparison, lost revenues were not eligible for reimbursement due to a statutory prohibition. The Commission proposes to make lost revenues ineligible for reimbursement due to the difficulty in administration and seek comment on this approach.

25. The Commission also seeks comment on the necessity of requiring replacement of certain equipment and services. Requiring such replacement in instances where replacement is unnecessary is a waste of public funds and contrary to its goals for the USF programs. The Commission seeks comment on whether to narrow its proposed rule to require that ETCs remove, but not replace, covered equipment and services. Are there scenarios in which replacement of removed equipment and services is not necessary? Are there networks in which there is sufficient redundancy that the removal of covered equipment and services need not be replaced? Are there other reasons why ETCs may not need to replace removed equipment and services?

26. *Available Funding.* The Commission proposes to seek an appropriation or authorization of funds from Congress to fund its proposed reimbursement program and to provide support for replacing existing equipment and services posing a national security threat in USF-supported networks. Given the potential national security risks in leaving existing equipment in USF-funded networks, as well as Congress' direction to the Commission to ''ensure that communications service to users and customers is sustained,'' it believes Congress will want to play a role in providing financial resources to resolve a time-limited issue. For example, on May 22, 2019, Senators Cotton, Markey, Warner, and Wicker introduced S. 1625, the United States 5G Leadership Act of 2019, which would establish a $700 million Supply Chain Security Trust Fund using auction proceeds to replace equipment or services that are determined by the Commission to pose a national security risk. The Commission seeks comment on its proposal, and on the appropriate level of funding the Commission should request from Congress.

27. Alternatively, if Congress does not appropriate funding for the Commission, the Commission seeks comment on using USF funding to provide support for replacing existing equipment and services posing a national security threat in the networks used by USF recipients. As noted in the record, there are existing budgets or caps for all four universal service programs. Should the Commission account for replacement reimbursement costs from the USF under the cap or budget for the USF program that funded the equipment in the first place? How would using USF support affect the contribution factor? Should the Commission consider establishing a new, time-limited USF program for this purpose? If the Commission does not establish new USF replacement disbursement program, it seeks comment on whether there is a way to prioritize existing USF support using the existing programs. For instance, should the Commission consider advance funding for affected entities under the high cost support programs? Or, are there specific Commission rules that the Commission could change or waive, such as the E-Rate program's category two budget limits or equipment transfer rules for schools and libraries that may need to replace existing equipment or services? Within the confines of the USF program, what level of support is appropriate for funding these replacement costs?

28. What are the total costs of removing and replacing equipment and services from covered companies as proposed? For instance, the Telecommunications Industry Association provides an estimate of less than 1,500 cell sites costing approximately $150 million plus installation. At the other end of the cost estimates, one declaration stated that it could cost $410 million for a single carrier to transition the equipment out of its network. The Rural Wireless Association (RWA) states that approximately 25% of its members have deployed either Huawei or ZTE in their networks, with estimated costs of $800 million to $1 billion in costs to replace equipment before the end of its lifespan and depreciation for those 12 to 13 companies. They also cite information from Huawei, who is an associate member of the RWA, that it has 40 wireless and wireline customers in the United States, whose additional costs beyond its membership RWA could not estimate. How accurate are these estimates? What other sources of information are available to estimate the total cost that would be needed for the Commission's proposed reimbursement program? (Separately, in the concurrently adopted Order, the Commission adopts an information collection to aid its inquiry).

29. Finally, should the Commission cap the amount of funding available to these affected entities? If the Commission sets such a cap, it seeks comment on ways to prioritize the limited funding if the replacement funding amount sought exceeds the total available funds. Should the Commission separately cap the amount eligible for each individual funding request? Section 889(b)(2) states that the Commission shall ''prioritize available funding . . .'' that is ''reasonably necessary for those affected entities to transition.'' As in the United States 5G Leadership Act, should the Commission limit eligibility for assistance based on the maximum number of customers that an affected entity serves? Would such a limitation ensure that the limited funds are properly targeted to those entities with the most need? How should the Commission interpret ''reasonably necessary''? Should the Commission require affected entities to contribute some portion of the funding to replace the covered equipment and services,

i.e., what portion, if any, of an entity's replacement cost should be borne by the requesting entity? If so, what percentage is appropriate to limit waste by incentivizing cost-efficient decision-making by ETCs, while ensuring entities can continue to serve their customers, patrons, and patients?

30. *Preventing Waste, Fraud, and Abuse.* As the Commission proposes to prohibit ETCs from using equipment and services from covered companies, it proposes to add a certification to existing program forms. USF recipients would need to certify they are complying with the proposed rule(s), either by certifying that they do not have covered equipment and services or that they are working to replace covered equipment and services with the funding received. The Commission proposes requiring a duly authorized individual from the entity under penalty of perjury sign the certification. Are there any concerns with this certification requirement? Do all USF participants have, or can they obtain through reasonable due diligence, sufficient insight into their equipment and services to make these certifications? Are there any other enforcement mechanisms that the Commission should consider?

31. The Commission also proposes to require all affected entities that receive funding to replace equipment or services to file annual certifications of compliance that all support will be used for its intended purpose. This is consistent with section 254 of the Act, which requires that USF recipients ''shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.'' The Commission proposes that the annual certification should be signed by a duly authorized individual from the company under the penalty of perjury. The Commission believes this proposal will protect the Universal Service Fund and any other potential source of funding from waste, fraud, and abuse. The Commission seeks comment on this and other ways to reduce the risk of waste, fraud, and abuse.

32. For instance, to ensure effective use of replacement funding, the Commission proposes to adopt a detailed reimbursement application process to confirm that funding is being used only to replace covered equipment and services, rather than to deploy services to new areas or replace aging equipment or services that are not covered. This is similar to the process adopted in the recent spectrum incentive auction where the Commission required broadcasters to submit estimated construction plans to the Media Bureau for the reimbursement of relocation costs. Under the Commission's proposal, applications for replacement funding would need to provide details of the covered equipment and services being replaced, the replacement equipment and services, and the estimated costs of replacement. The Commission seeks comment on this proposal.

33. The Commission believes that a detailed application process will verify the original costs, as well as the new replacement costs to ensure USF support or other funding is not wasted and used appropriately for comparable replacement facilities and services or limited upgrades, if the Commission so allows. How does the Commission verify the original and replacement costs to ensure that USF support or other funding is not wasted? What other information should the Commission require and how does it ensure the application process is simple enough that it does not discourage participation or delay efforts to replace equipment and services from covered companies that pose a national security risk? Alternatively, the Commission seeks comment on whether it should require affected entities to submit detailed requests for funding as well as detailed invoices similar to the process used within the E-Rate program. Would this option be more efficient than the detailed application process the Commission proposes? How does the Commission limit the burden on small entities while safeguarding the available funding? To prevent waste, fraud, and abuse, and to ensure transparency in the reimbursement program, should the Commission make disbursements to eligible entities public as was done following the broadcast incentive auction?

34. As with the existing USF programs, the Commission proposes that recipients of support be subject to periodic compliance audits and other inquiries, including as appropriate investigations, to ensure compliance with the Commission's rules and orders. The Commission seeks comment on this proposal and whether such an approach is sufficient to encourage compliance.

35. If a recipient violates the proposed condition upon receiving support or includes inappropriate costs in seeking replacement assistance, what steps should the Commission take in response? Are there any mitigating factors that should be considered when taking such steps? Should the Commission impose additional penalties beyond loss of funding and potential forfeitures under section 503 of the Act, 47 U.S.C. 254, 503? For instance, should violators be suspended or barred from receiving USF support? The Commission seeks comment on how to align such a penalty with Congress' direction in the 2019 NDAA to ensure that communications services to users and customers is sustained.

36. *Timelines for Removing and Replacing Equipment.* The Commission seeks comment on the timing and deadlines for replacement of covered equipment and services by ETCs. The Commission specifically seeks comment on the amount of time that may be necessary to replace covered equipment and services currently in communications networks with permissible, equivalent authorized equipment and services. The Commission also seeks comment on whether there are other sources of information that it should consider to help inform its decisions on replacement timing and deadlines and to understand the scope of the effort.

37. Should the Commission allow ETCs to obtain support even if they currently use covered equipment and services so long as they agree to replace such equipment and services by a set deadline? This would allow recipients to continue to receive support going forward and thus allow for a transition period to come into compliance without causing a disruption in annual funding for much needed supported services. If so, the Commission proposes to set a deadline by which covered equipment and services must be removed as a condition of receiving support. The Commission seeks comment on this proposal. How much time should the Commission allow for equipment and service replacement? Does a two-year period provide sufficient time? Or would a longer transition period, such as 3 to 7 years as suggested by one commenter, be more appropriate? The Commission also requests comment on how a deadline would impact overall replacement costs.

38. In adopting a deadline, should the Commission require all equipment and services to be removed by a set date, or implement a phased approach with different deadlines for affected ETCs to replace equipment and services? Recognizing the important national security interest in removing covered equipment and services as quickly as possible, if the Commission adopts a phased approach, how long would affected companies need to comply? Should different categories of ETCs be given additional time to replace covered equipment and services? For example, how should the size of the ETC affect the deadline?

39. If the Commission does adopt a phased deadline approach, it seeks comment on how to structure the deadlines. Should the Commission identify specific replacement thresholds, or prioritize replacement of certain equipment and services first? How would a transition with set thresholds to replace equipment and services impact ETCs as compared to a single deadline? For any proposed timeline, the Commission seeks comment on the impact of the timeline on reimbursement costs. How does the replacement cost of covered equipment and services change over different transition timeframes? Is it more cost-efficient to set a specific deadline or wait for the end of life of the deployed equipment? For example, the record shows support for having a transition period. Alternatively, what are the potential impacts on carriers and consumers of requiring an expedited transition period? Commenters, particularly small wireless carriers, argue that equipment may not be readily available or may only be available at a much higher cost. How does the Commission best model the cost differences based on the timing? How should the Commission factor in potential executive or legislative actions that could have timing and cost implications in the future, such as the additions of further prohibited equipment manufacturers in future legislation?

40. To the extent the Commission allows ETCs to replace covered equipment and services pursuant to varying deadlines while still continuing to receive USF support, should ETCs be allowed to replace a certain percentage of the prohibited equipment and services in the first year in order to continue to receive support for replacement? What types of reporting from these entities would be necessary for the Commission to track compliance with any milestones? If there are reasons outside of an entity's control that delay replacement, should the Commission establish a mechanism for the entity to report noncompliance with the milestones without penalty? Should the Commission provide financial incentives for entities that can accelerate replacement faster than its milestones?

41. *Additional Issues Arising from the 2019 NDAA.* Section 889(b)(2) of the NDAA requires the Commission to prioritize ''technical support'' to assist affected entities in transitioning from using covered equipment to new equipment without impacting communications service to consumers. The Commission seeks comment on what ''technical support'' means. Is the Commission or USAC properly suited to provide technical support to carriers as they eliminate covered equipment or services from their network? If so, what ''technical support'' should the Commission provide to assist affected entities in their transition? The Commission seeks comment on how to comply with this portion of section 889(b)(2) of the NDAA. For instance, the Commission seeks comment on best practices to reduce the risk from existing equipment and services provided by covered entities while USF recipients transition to safer and more secure equipment and services. Are there ways USF recipients can upgrade software from a covered company to reasonably improve the security of and reduce threats from covered equipment or services? Should recipients be permitted to replace a covered company's software with that of a trusted third party, in a way that could mitigate the security risk? How would such actions reduce the risk and are there ways for the Commission to provide assistance in making these decisions?

42. The Commission also seeks comment on how to implement the direction under the 2019 NDAA in light of actions taken by the Executive Branch since August 2018. In particular, on May 15, 2019, the President issued Executive Order 13873 prohibiting the acquisition, importation, transfer, installation, dealing in, or use of any information and communications technology or service by a person subject to United States jurisdiction, where the Department of Commerce has determined that the transaction is subject to the jurisdiction or direction of a foreign adversary and it poses certain risks to the national security of the United States. The next day, the Bureau of Industry and Security of the Department of Commerce added Huawei Technologies, Co. Ltd. to the Export Administration Regulations (EAR) Entity List. The EAR Entity List is where persons, including entities, designated by the Bureau of Industry and Security, are identified when ''there is reasonable cause to believe, based on specific and articulable facts, that the person has been involved, is involved, or poses a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States.'' The Bureau of Industry and Security of the Department of Commerce later amended the EAR to create a 90-day temporary general license allowing some continued exports, reexports, and transfers through August 19, 2019, amended the EAR to extend a second time the temporary general license through November 18, 2019, and then subsequently extended the temporary general license a third time through February 16, 2020. The Secretary of Commerce will also be issuing regulations pursuant to this Executive Order.

43. The Commission seeks comment on how to ensure that its actions are consistent and in harmony with actions by other government agencies. How do these Executive Branch actions affect this rulemaking? Are there restrictions imposed by the inclusion of companies on the Entity List that accelerate the need for the Commission to act?

44. Based on presently available information, the Commission estimates the cost of requiring the removal and replacement of covered equipment and services within the next two years to be between $600 million and $2.0 billion, *i.e.,* adding approximately $440 million to $1.0 billion more to the costs of the Commission's action in the concurrently adopted Report and Order. This compares to Cobank's removal-and-replacement cost estimate of $1 billion. That estimate applies to rural carriers only and excludes ongoing operational costs, both of which the Commission's estimates includes. In making this estimate, the Commission adopts the assumptions of the cost benefit analysis of the concurrently adopted Report and Order, except it assumes all carriers accepting universal service support must remove and replace 100%, rather than only 50% to 75%, of their equipment. The Commission assumes that the concurrently adopted Report and Order will impact investment decisions starting in 2020, so the Commission would see replacements identical to what would occur under attrition at the end of both 2020 and 2021, covering 2 years or 20% of the original equipment, with replacement cost of the remaining 80% of the Huawei or ZTE asset base occurring at the end of the period. Thus, the Commission's cost estimate of between $600 million and $2.0 billion is the sum of the present value of three differences: (1) the difference between the two-year cost streams under attrition and under the base case, plus (2) the difference between the cost stream that removal and replacement generates over the next 8 years and the base case cost stream over those 8 years, plus (3) the difference between the cost flows with the replaced capital and the steady-state annuity under the base case from January 1, 2030, out to 2040. If the Commission extends the transition to

seven years (instead of two), the costs will decline by $250 million to $590 million. While the Commission acknowledges that the benefits of its proposed actions are difficult to quantify, the Commission expects that they would outweigh the costs. The Commission seeks comment on this analysis and any other quantitative or qualitative information available on the costs and benefits of its proposals.

III. Procedural Matters

A. Paperwork Reduction Act

45. This document contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

46. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities from the policies and rules proposed in the Further Notice. The Commission requests written public comment on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in the Further Notice. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

47. Consistent with the Commission's obligation to be responsible stewards of the public funds used in the USF programs and increasing concern about ensuring communications supply chain integrity, the *Further Notice* proposes and seeks comment on a rule conditioning receipt of USF support on certification by an ETC that it does not use covered equipment or services from companies that pose a national security threat to communications networks or the communications supply chain. The *Further Notice* also seeks comment on establishing a program for the funding of reasonable replacement costs for ETCs affected by the new condition on USF support.

48. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

49. *Small Entities, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore identifies here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

50. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of Aug 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

51. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

52. The small entities potentially affected by the proposals herein include Telecommunications Service Providers, internet Service Providers and Vendors and Equipment Manufacturers.

53. The Further Notice proposes a rule that conditions universal service support on a certification that ETCs are not using any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain. The Commission seeks comment on this proposal, and its likely costs and benefits, as well as on alternative approaches and any other steps it should consider taking. The Further Notice also seeks comment on how broadly this proposed rule should apply, and how it should be implemented. The Commission seeks comment on how to enforce the proposed rule, including who should be held liable for the recovery of disbursed funds. The Commission also seeks comment on establishing a program for the funding of reasonable replacement costs for ETCs affected by the new condition on USF support. Lastly, the Commission seeks comment on whether sections 201(b) and 254 provide legal authority for the proposed rule.

54. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

55. In compliance with the direction to the Commission provided in the 2019 NDAA, the Further Notice specifically proposes to establish a funding mechanism to reimburse entities, particularly small and rural carriers, for the costs of replacing the covered equipment. The Further Notice also

seeks comment on whether there are any compliance issues the Commission should consider, particularly for smaller carriers.

56. The Commission expects to take into account the economic impact on small entities, as identified in comments filed in response to the Further Notice and this IRFA, in reaching its final conclusions and promulgating rules in this proceeding. In addition to taking into the account the size of the entity in potentially establishing transition periods to come into compliance with the proposed condition on future USF support, the Commission also seeks comment on establishing a program for the funding of reasonable replacement costs for ETCs affected by the new condition on USF support, which would include small ETCs.

57. *Ex Parte Presentations.* The proceeding this Further Notice initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

IV. Ordering Clauses

58. Accordingly, *it is ordered* that, pursuant to the authority contained in section 1–4, 201(b), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201(b), 254, this Further Notice *is adopted.*

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communication Commission proposes to amend 47 part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, and 1302 unless otherwise noted.

Subpart A—General Information

■ 2. Amend § 54.9 by adding paragraphs (c) and (d) to read as follows:

§ 54.9 Prohibition on use of funds.

* * * * *

(c) Upon adoption of a funded reimbursement mechanism for replacing such equipment or services, Eligible Telecommunications Carriers must certify prior to receiving a funding commitment or support that it does not use covered equipment or services.

(d) For purposes of paragraph (c) of this section, covered equipment or services are equipment or services produced or provided by any company designated by the Commission as posing a national security threat to the integrity of communications networks or the communications supply chain.

[FR Doc. 2019–27646 Filed 1–2–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 191220–012]

RIN 0648–BH67

Fisheries of the Northeastern United States; Omnibus Deep-Sea Coral Amendment

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes to approve and implement the measures of the New England Fishery Management Council's Omnibus Deep-Sea Coral Amendment. This action would protect deep-sea corals from the impacts of commercial fishing gear on Georges Bank and in the Gulf of Maine. These proposed management measures are intended to reduce, to the extent practicable, impacts of fishing gear on deep-sea corals in New England while balancing their costs to commercial fisheries.

DATES: Public comments must be received by February 18, 2020.

ADDRESSES: The New England Fishery Management Council has prepared a draft Environmental Assessment (EA) for this action that describes the proposed measures in the Omnibus Deep-Sea Coral Amendment and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council submitted a draft of the amendment to NMFS that includes the draft EA, a description of the Council's preferred alternatives, the Council's rationale for selecting each alternative, and a Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA). Copies of supporting documents used by the New England Fishery Management Council, including the EA and RIR/IRFA, are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: *https://www.nefmc.org/library/omnibus-deep-sea-coral-amendment.*

You may submit comments, identified by NOAA–NMFS–2019–0092, by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to

www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0092, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Omnibus Deep-Sea Coral Amendment.''

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

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, (978) 281–9233.

SUPPLEMENTARY INFORMATION:

Background

The coral protection zones included in this amendment were initially developed during 2010 and 2011 as part of the Council's Omnibus Essential Fish Habitat Amendment 2 (OHA2), finalized April 9, 2018 (83 FR 15240; April 9, 2018). In September 2012, the Council split the coral protection zones and associated management measures out of OHA2 into a separate omnibus amendment. On March 13 and 15, 2017, the Council held workshops in New Bedford, MA, and Portsmouth, NH, to discuss the coral zone boundaries, considering the canyon and slope zones on Georges Bank (broad zone) at the first meeting, and the offshore Gulf of Maine zones at the second. On April 18, 2017, the Council chose preferred alternatives for the coral zones to go out to public hearing. The Council held public hearings throughout New England in May of 2017, and revisited its preferred alternatives at its June 2017 meeting. These meetings were noticed in the **Federal Register** (82 FR 21809; May 10, 2017) and advertised on the Council's website and at meetings of the Council's Habitat Committee and the full Council. Many small entities were in attendance and commented at each hearing. Based on the attendance sheets, over 150 people attended the hearings, many of which either were or were representing small entities. Testimony was given by approximately 50 individuals, with individuals sometimes providing comments at more than one hearing. On June 22, 2017, the Council took final action on the Gulf of Maine portions of the amendment, but did not select final preferred alternatives for the broad coral protection zone on Georges Bank. Instead, the Council added a new alternative for analysis that was suggested during the public hearings. Finally, on January 30, 2018, the Council selected a final preferred alternative for the broad coral protection zone on Georges Bank and adopted the Omnibus Deep-Sea Coral Amendment.

The Council submitted the Amendment to NMFS for initial review on December 21, 2018. The Council submitted a revised draft of the Amendment on June 25, 2019, for final review by NMFS, acting on behalf of the Secretary of Commerce.

The Council developed this action, and the measures described in this proposed rule, under the discretionary provisions for deep-sea coral protection in section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This provision gives the Regional Fishery Management Councils the authority to:

(A) Designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear; and

(B) Designate such zones in areas where deep-sea corals are identified under section 408 (this section describes the deep-sea coral research and technology program), to protect deep-sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep-sea corals, after considering long-term sustainable uses of fishery resources in such areas.

Deep-sea corals can build reef-like structures or occur as thickets, isolated colonies, or solitary individuals, and often are significant components of deep-sea ecosystems, providing habitat (substrate, refuge) for a diversity of other organisms, including many economically important fish and invertebrate species. All corals are vulnerable to fishing gear impacts, but the degrees of susceptibility and the rates of recovery vary, depending both on coral biology and on spatial overlap between corals and fishing grounds, which influences the likelihood of gear interactions. Deep corals can be found from near the surface to 6,000 m depth, but most commonly occur between 50–1,000 m on hard substrate. Deep-sea coral habitats have been noted to have higher associated concentrations of fish than surrounding areas and are believed to serve as nursery grounds and provide habitat for many species of fish and invertebrates at various life stages, including commercially important fish species. Consistent with these provisions, the Council proposed the measures in the Omnibus Deep-Sea Coral Amendment to identify and protect concentrations of corals in select areas and restrict the expansion of fishing effort into areas where corals are likely to be present while taking into account long-term sustainable uses of fishery resources in the areas and the costs to commercial fisheries.

Proposed Measures

Georges Bank Deep-Sea Coral Protection Area

The Omnibus Deep-Sea Coral Amendment would establish deep-sea coral protection areas on the outer continental shelf in New England waters. It would complement the Frank R. Lautenberg Deep-Sea Coral Protection Area established by the Mid-Atlantic Fishery Management Council in Amendment 16 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) (81 FR 90246; December 14, 2016) as described in § 648.372. The area would run along the outer continental shelf in waters no shallower than 600 meters and extend to the outer limit of U.S. Exclusive Economic Zone (EEZ) boundary to the east and north, and south to the intercouncil boundary as described in § 600.105(a).

The Council proposed this coral protection area to prevent the expansion of fishing effort into deep-water coral areas, while limiting impacts on current fishing operations. This area would be designated with the landward boundary drawn between the 600-m contour as a hard landward boundary and the 650-m contour as a hard seaward boundary. In some areas the boundary crosses the 650-m contour to draw this line as straight as possible; however, the boundary was constrained on its shallow side by the 600-m contour. From the landward boundary, the boundaries would extend along the northern and southern boundaries of the New England Council's management region and to the edge of the EEZ as the eastward boundary.

Gear Restrictions in the Georges Bank Deep-Sea Coral Protection Area

This action would prohibit the use of bottom-tending commercial fishing gear

within the designated Georges Bank Deep-Sea Coral Protection Area, including: Bottom-tending otter trawls; bottom-tending beam trawls; hydraulic dredges; non-hydraulic dredges; bottom-tending seines; bottom longlines; pots and traps; and sink or anchored gillnets. The prohibition on these gears would protect deep-sea corals from interaction with and damage from bottom-tending fishing gear. Red crab pot gear would be exempt from the prohibition.

Mount Desert Rock Coral Protection Area

This action would designate a coral protection area in an 8-mi^2 (21-km^2) area southwest of Mount Desert Rock, a small, rocky island off the eastern Maine coast, about 20 nm (37 km) south of Mount Desert Island, encompassing depths of 100–200 m. Corals have been documented in this area from historic data dating back to the 19th century from both fisheries bycatch and naturalist surveys and from recent deep-sea coral oriented cruises within the New England region in 2000s. Vessels would be prohibited from fishing with bottom-tending mobile gear within the Mount Desert Rock Coral Protection Area. Bottom-tending mobile gear includes but is not limited to: Bottom-tending otter trawls; bottom-tending beam trawls; hydraulic dredges; non-hydraulic dredges; and seines (with the exception of a purse seine). This would protect corals in this area from fishing impacts from these gears. Vessels would still be able to fish for lobster in this area using trap gear.

Outer Schoodic Ridge Coral Protection Area

This action would designate a coral protection area in a 31-mi^2 (79-km^2) area on the Outer Schoodic Ridge, roughly 25 nm (46 km) southeast of Mount Desert Island, encompassing depths of 104–248 m. Corals have been documented in both historic and recent data. Vessels would be prohibited from fishing with bottom-tending mobile gear within the Outer Schoodic Ridge Coral Protection Area. Bottom-tending mobile gear includes but is not limited to: Bottom-tending otter trawls; bottom-tending beam trawls; hydraulic dredges; non-hydraulic dredges; and seines (with the exception of a purse seine). This would protect corals in this area from fishing impacts from these gears. Vessels would still be able to fish for lobster in this area using trap gear.

Transiting Provisions

Vessels would be allowed to transit the Georges Bank, Mount Desert Rock, and Outer Schoodic Ridge Coral Protection Areas provided the vessels bring bottom-tending fishing gear onboard the vessel, and reel bottom-tending trawl gear onto the net reel. These transiting provisions are consistent with those established by the Mid-Atlantic Council in Amendment 16 to the Atlantic Mackerel, Squid, and Butterfish FMP. The Mid-Atlantic Council proposed these slightly less restrictive transiting provisions because the majority of transiting will be through the very narrow canyon heads (*i.e.,* the narrow tips of the canyons that extend landward of the broad coral zone landward boundary). The Mid-Atlantic Council determined that the normal gear stowage requirements and requirements that gear be unavailable for immediate use (at 50 CFR 648.2) would be too burdensome for commercial vessels within the narrow areas of the coral protection areas.

Jordan Basin Dedicated Habitat Research Area

This action would designate the area around Jordan Basin in the Gulf of Maine as a dedicated habitat research area, but it would not impose any additional restrictions on fishing in this area. The purpose of this designation is to encourage further exploration of coral habitats at the site, and to encourage research on fishing gear impacts on these habitats.

Framework Adjustments

This action would add framework adjustment provisions to facilitate future modifications to the New England Deep-Sea Coral Protection Areas. The new measures that may be changed using a framework adjustment would include adding, revising, or removing coral areas; changing fishing restrictions in coral areas; and developing new, or changing existing, coral area fishery access or exploratory fishing programs.

Letters of Acknowledgement for Vessels Conducting Scientific Research

The Council requested that researchers seek a Letter of Acknowledgement (LOA) from NMFS before conducting research in these areas. Scientific research on a scientific research vessel is not considered fishing and is therefore exempt from the requirements of the Magnuson-Stevens Act (Magnuson-Stevens Act, Sec. 3, 50 CFR 600.10 and 600.512). NMFS cannot require that scientific research institutions request an LOA when conducting scientific research at sea on a scientific research vessel, but we will encourage researchers to do so, consistent with regulations implementing the Magnuson-Stevens Act provisions at 50 CFR 600.512.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has preliminarily determined that this Amendment and proposed rule are consistent with the Omnibus Deep-Sea Coral Amendment, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows. The IRFA is incorporated into the Final Omnibus Deep Sea Coral Amendment—June 25, 2019, section 11.3. A copy of this analysis is available from the Council (see **ADDRESSES**) or via online at *https://www.nefmc.org/library/omnibus-deep-sea-coral-amendment.*

Description of the Reasons Why Action by the Agency Is Being Considered and Statement of the Objectives of, and Legal Basis for, This Proposed Rule

This action proposes to implement measures to protect deep-sea corals from fishing gear. The background section of the preamble to this proposed rule includes a complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

This action contains no new collection-of-information, reporting, or recordkeeping requirements. There would be economic impacts to small entities associated with this proposed rule. Those impacts are described in detail in the Final Omnibus Deep Sea Coral Amendment, specifically, in the IRFA section 11.3.3.1 and in the analysis of the impacts on human communities in section 7.1.3.

Federal Rules Which May Duplicate, Overlap or Conflict With This Proposed Rule

Parts of the proposed action overlap spatially with the Northeast Canyons and Seamounts Marine National Monument, defined by Presidential Proclamation 9496 of September 15, 2016 (81 FR 65159). However, this

action is being proposed under the Council's discretionary authority granted in section 303(b)(2)(B) of the Magnuson-Stevens Act which is separate from the authority granted to the President in 320301 of title 54, United States Code, which the Monument was originally designated under. In addition, this action would protect deep-sea corals from the impacts of fishing gear across a much larger area. The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

Description and Estimate of the Number of Small Entities to Which This Proposed Rule Would Apply

On July 18, 2019, the Small Business Administration (SBA) issued an interim final rule (84 FR 34261) effective August 19, 2019, that adjusted the monetary-based industry size standards (*i.e.,* receipts- and assets-based) for inflation for many industries. For fisheries for-hire businesses and marinas, the rule changes the small business size standard from $7.5 million in annual gross receipts to $8 million. *See* 84 Fed Reg at 34273 (adjusting NAICS 487990 (Scenic and Sightseeing Transportation, Other) and 713930 (Marinas)).

Pursuant to the Regulatory Flexibility Act, and prior to SBA's July 18, 2019 interim final rule, an initial regulatory flexibility analysis was developed for this action using SBA's former size standards. NMFS has reviewed the analyses prepared for this action in light of the new size standards. Under the former, SBA size standards, all entities subject to this action were considered small entities, and they all would continue to be considered small under the new standards.

Taking this change and public comment into consideration, NMFS has identified no additional significant alternatives that accomplish statutory objectives and minimize any significant economic impacts of the proposed rule on small entities. This is because the recreational for-hire sector is not active in the management regions identified in this action.

Further, the new size standards do not affect the decision to prepare a final regulatory flexibility analysis as opposed to a certification for this action. This is because all for-hire entities in the region are already classified as small businesses.

For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates) and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. For-hire businesses are categorized as a small business if combined annual receipts do not exceed $7.5 million. The Omnibus Deep-Sea Coral Amendment regulates all fishermen with Federal permits allowing the holder to fish in the Federal waters off Southern New England, Georges Bank, and the Gulf of Maine. In 2017, this represents 10 large commercial fishing businesses, 3,832 small commercial fishing businesses and 351 recreational for-hire businesses, all of the latter being categorized as small businesses.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statues and Which Minimize Any Significant Economic Impact on Small Entities

The Council considered an alternative for the Georges Bank Coral Protection Area that would have had less economic impact on small businesses. This alternative would have prohibited the use of bottom-tending commercial fishing gear (with the exception of red crab gear) in waters deeper than 900 m. The impacts on small entities would have been neutral under this alternative because no fishing activity with bottom-tending gears is known to occur at these depths. There would be slight negative impacts on small entities if the proposed measures outlined in the preamble are implemented. Vessel Trip Reports (VTR) analysis indicates that large and small businesses are not facing substantially different impact levels overall, although the most highly exposed small businesses generate a larger fraction of their overall revenue from areas within the preferred alternative when compared to large businesses. This analysis indicates that between $6.5–$8.5 million in gross revenue will be potentially displaced under the preferred alternatives, although VTR data suggests this revenue number is an overestimate. The major caveat to this analysis is the lack of information for the inshore lobster fishery, and the complete lack (and thus uncertainty) of value estimates for the benefits associated with deep-sea coral conservation, although it is known that deep-sea corals can provide habitat (substrate, refuge) for a diversity of other organisms, including many economically important fish and invertebrate species. The largest revenue estimates are attributed to lobster, Jonah and red crab, silver hake, longfin squid, and sea scallop. However, based on discussions at the Council's coral workshops in March 2017, it was determined that the designation of a broad coral protection zone in waters no shallower than 600 m would cause little change in bottom trawl, trap/pot, and gillnet effort, and that the VTR data were overestimating the potential displacement of effort because of the lack of precision in the data. Furthermore, this is an estimate of gross revenue of displaced effort, and fishermen could relocate that displaced effort to an area outside the closure and still generate revenue. The red crab fishery would be exempt from these restrictions in the Georges Bank Deep-Sea Coral Protection Area because it is a small fishery that takes place entirely within the proposed zone, and prohibiting the red crab effort from the area would essentially end the red crab fishery. To better understand these issues, NMFS seeks public comment on the VTR analysis (described in section 7.1.3.1 of the Final Omnibus Deep Sea Coral Amendment), specifically regarding the revenue number generated by the analysis and the lack of information for the inshore lobster fishery. In addition, NMFS seeks comment on value estimates for the benefits associated with deep-sea coral conservation.

The proposed Georges Bank measures protect more known coral habitat and habitat suitable for corals compared with the 900-m alternative. The proposed action would protect 525 known coral records compared with 422 known records for the 900-m alternative (24-percent increase). In addition, the proposed alternative would protect 3,587 km^2 area highly likely to be suitable habitat for soft corals compared with 2,821 km^2 for the 900-m alternative (27-percent increase).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: December 30, 2019.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.14, add paragraphs (b)(13) through (15) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(b) * * *

(13) Fish with bottom-tending gear within the Georges Bank Deep-Sea Coral Protection Area described at § 648.373(a)(2), unless transiting pursuant to § 648.373(d), or fishing red crab trap gear in accordance with § 648.264. Bottom-tending gear includes, but is not limited to, bottom-tending otter trawls, bottom-tending beam trawls, hydraulic dredges, non-hydraulic dredges, bottom-tending seines, bottom longlines, pots and traps, and sink or anchored gill nets.

(14) Fish with bottom-tending mobile gear within the Mount Desert Rock Coral Protection Area described at § 648.373(b), unless transiting pursuant to § 648.373(d). Bottom-tending mobile gear includes, but is not limited, to otter trawls, beam trawls, hydraulic dredges, non-hydraulic dredges, and seines (with the exception of a purse seine).

(15) Fish with bottom-tending mobile gear within the Outer Schoodic Ridge Coral Protection Area described at § 648.373(c), unless transiting pursuant to § 648.373(d). Bottom-tending mobile gear includes, but is not limited to, otter trawls, beam trawls, hydraulic dredges, non-hydraulic dredges, and seines (with the exception of a purse seine).

* * * * *

■ 3. In § 648.371 revise paragraph (d) and add paragraph (f) to read as follows:

§ 648.371 Dedicated Habitat Research Areas.

* * * * *

(d) *Transiting.* Unless otherwise restricted or specified in this paragraph (d), a vessel may transit the Dedicated Habitat Research Areas of this section provided that its prohibited gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

(f) *Jordan Basin Dedicated Habitat Research Area.* (1) The *Jordan Basin* DHRA is defined by the following coordinates, connected in the order listed by straight lines:

TABLE 1 TO PARAGRAPH (f)

Point	Longitude	Latitude
DHRA1	−67°51.38′	43°27.47′
DHRA2	−67°47.38′	43°27.46′
DHRA3	−67°47.18′	43°16.92′
DHRA4	−67°51.05′	43°17.05′
DHRA1	−67°51.38′	43°27.47′

(2) Fishing vessels, regardless of gear type, may fish within the *Jordan Basin* DHRA.

* * * * *

■ 4. Add § 648.373 to read as follows:

§ 648.373 New England Deep-Sea Coral Protection Areas.

(a) *Georges Bank Deep-Sea Coral Protection Area.* (1) No vessel may fish with bottom-tending gear within the Georges Bank Deep-Sea Coral Protection Area described in this section, unless transiting pursuant to paragraph (d) of this section or fishing red crab trap gear in accordance with § 648.264. Bottom-tending gear includes, but is not limited to, bottom-tending otter trawls, bottom-tending beam trawls, hydraulic dredges, non-hydraulic dredges, bottom-tending seines, bottom longlines, pots and traps, and sink or anchored gillnets.

(2) The Georges Bank Deep-Sea Coral Protection Area is bound on the west by the New England/Mid-Atlantic Inter-council Boundary line (detailed in paragraph (a)(2)(i) of this section); bound on the north by a simplified line (detailed in paragraph (a)(2)(ii) of this section) following the 600m depth contour along the southern flank of Georges Bank; and bound on the east and south by the U.S.-Canada Maritime Boundary and the outer limit of the U.S. Exclusive Economic Zone (detailed in paragraph (a)(2)(iii) of this section).

(i) The western boundary is defined by the following coordinates, connected in the order listed, south to north, by straight lines:

TABLE 1 TO PARAGRAPH (a)(2)(i)

Point	Longitude	Latitude	Note
1	−68°47.62′	38°2.21′	(1)
2	−68°49.99′	38°4.84′	
3	−68°57.35′	38°13.00′	
4	−69°4.73′	38°21.15′	
5	−69°12.13′	38°29.29′	
6	−69°19.57′	38°37.42′	
7	−69°27.03′	38°45.54′	
8	−69°34.53′	38°53.66′	
9	−69°42.05′	39°1.77′	
10	−69°49.60′	39°9.86′	
11	−69°57.18′	39°17.96′	
12	−70°4.78′	39°26.04′	
13	−70°12.42′	39°34.11′	
14	−70°20.09′	39°42.18′	
15	−70°27.78′	39°50.24′	
16	−70°31.64′	39°54.26′	
17	−70°32.09′	39°54.72′	(2)

Notes:
(1) POINT 1 represents the outer limit of the US EEZ.
(2) POINT 17 represents where the western and northern boundaries meet.

(ii) The northern (nearshore) boundary is defined by the following coordinates, connected in the order listed, west to east, by straight lines.

TABLE 1 TO PARAGRAPH (a)(2)(ii)

Point	Longitude	Latitude	Note
17	−70°32.09′	39°54.72′	(3)
18	−70°29.83′	39°59.78′	
19	−70°28.72′	39°54.41′	
20	−70°27.52′	39°53.44′	
21	−70°26.05′	39°53.13′	
22	−70°23.81′	39°53.13′	
23	−70°22.44′	39°53.72′	
24	−70°21.97′	39°54.94′	
25	−70°20.12′	39°53.97′	
26	−70°16.98′	39°53.60′	
27	−70°17.35′	39°54.55′	
28	−70°16.99′	39°54.77′	
29	−70°17.55′	39°57.01′	
30	−70°16.69′	39°57.06′	
31	−70°14.54′	39°57.75′	
32	−70°13.64′	39°58.44′	
33	−70°12.58′	39°58.82′	
34	−70°12.16′	39°58.32′	
35	−70°13.85′	39°56.68′	
36	−70°14.29′	39°56.56′	
37	−70°12.51′	39°55.18′	
38	−70°11.17′	39°55.2′	
39	−70°11.19′	39°54.34′	
40	−70°10.33′	39°53.64′	
41	−70°7.98′	39°54.17′	
42	−70°6.99′	39°54.94′	
43	−70°6.56′	39°53.85′	
44	−70°4.99′	39°53.24′	
45	−70°02.97′	39°52.62′	
46	−70°02.70′	39°53.66′	
47	−70°01.24′	39°54.69′	
48	−70°00.34′	39°53.26′	
49	−69°59.41′	39°52.49′	
50	−69°57.88′	39°52.61′	
51	−69°57.05′	39°53.05′	
52	−69°56.35′	39°53.59′	
53	−69°56.11′	39°54.94′	
54	−69°55.76′	39°55.08′	
55	−69°54.62′	39°53.23′	
56	−69°53.02′	39°54.29′	
57	−69°52.21′	39°54.39′	
58	−69°52.34′	39°53.64′	
59	−69°50.97′	39°53.36′	
60	−69°50.65′	39°53.73′	
61	−69°49.45′	39°52.85′	
62	−69°49.63′	39°52.32′	
63	−69°48.88′	39°52.96′	
64	−69°47.91′	39°52.54′	
65	−69°48.06′	39°51.85′	
66	−69°42.35′	39°52.03′	
67	−69°42.19′	39°52.68′	
68	−69°41.32′	39°52.27′	
69	−69°39.66′	39°52.33′	
70	−69°40.03′	39°53.03′	
71	−69°39.34′	39°53.81′	
72	−69°38.51′	39°53.04′	
73	−69°38.11′	39°53.27′	
74	−69°37.59′	39°52.38′	
75	−69°36.93′	39°51.89′	
76	−69°36.99′	39°53.42′	
77	−69°37.44′	39°53.85′	
78	−69°37.02′	39°54.34′	
79	−69°37.52′	39°55.59′	
80	−69°37.01′	39°57.70′	
81	−69°36.71′	39°56.34′	
82	−69°36.27′	39°55.53′	
83	−69°34.57′	39°54.60′	
84	−69°33.63′	39°52.98′	
85	−69°32.47′	39°52.93′	
86	−69°31.87′	39°53.95′	
87	−69°30.29′	39°53.10′	
88	−69°29.48′	39°53.43′	

TABLE 1 TO PARAGRAPH (a)(2)(ii)—Continued

Point	Longitude	Latitude	Note
89	−69°28.95′	39°54.14′	
90	−69°27.35′	39°54.43′	
91	−69°27.56′	39°53.86′	
92	−69°26.77′	39°53.38′	
93	−69°26.07′	39°53.97′	
94	−69°25.88′	39°53.50′	
95	−69°24.94′	39°53.79′	
96	−69°24.47′	39°53.50′	
97	−69°23.95′	39°54.81′	
98	−69°23.32′	39°54.05′	
99	−69°21.95′	39°54.09′	
100	−69°21.07′	39°54.38′	
101	−69°20.72′	39°54.97′	
102	−69°19.83′	39°54.78′	
103	−69°19.16′	39°55.00′	
104	−69°18.60′	39°56.03′	
105	−69°18.28′	39°55.46′	
106	−69°17.12′	39°55.53′	
107	−69°16.92′	39°56.20′	
108	−69°16.27′	39°55.87′	
109	−69°15.58′	39°56.29′	
110	−69°14.44′	39°57.54′	
111	−69°13.82′	39°57.37′	
112	−69°13.47′	39°58.01′	
113	−69°12.44′	39°56.95′	
114	−69°12.06′	39°57.69′	
115	−69°11.10′	39°56.69′	
116	−69°10.92′	39°57.04′	
117	−69°10.86′	39°58.26′	
118	−69°10.40′	39°58.14′	
119	−69°10.07′	39°59.85′	
120	−69°08.70′	39°59.01′	
121	−69°07.72′	39°59.00′	
122	−69°07.97′	39°58.50′	
123	−69°07.00′	39°57.74′	
124	−69°06.31′	39°57.59′	
125	−69°05.31′	39°58.82′	
126	−69°04.61′	39°58.14′	
127	−69°04.44′	39°58.88′	
128	−69°03.89′	39°58.95′	
129	−69°04.27′	40°00.04′	
130	−69°03.33′	40°00.15′	
131	−69°03.04′	40°00.45′	
132	−69°03.43′	40°02.96′	
133	−69°02.67′	40°04.10′	
134	−69°03.34′	40°05.17′	
135	−69°02.91′	40°05.86′	
136	−69°02.12′	40°04.15′	
137	−69°01.85′	40°02.32′	
138	−69°01.28′	40°01.87′	
139	−69°00.75′	40°01.92′	
140	−68°59.76′	40°00.83′	
141	−68°59.08′	40°01.51′	
142	−68°58.63′	40°00.89′	
143	−68°57.67′	40°00.45′	
144	−68°56.65′	40°00.44′	
145	−68°56.3′	40°00.92′	
146	−68°55.27′	40°00.56′	
147	−68°55.34′	40°01.22′	
148	−68°53.97′	40°01.40′	
149	−68°53.58′	40°00.82′	
150	−68°53.14′	40°01.24′	
151	−68°52.73′	40°00.99′	
152	−68°51.53′	40°02.81′	
153	−68°50.76′	40°03.08′	
154	−68°50.10′	40°03.77′	
155	−68°50.40′	40°04.73′	
156	−68°48.94′	40°04.35′	
157	−68°49.05′	40°05.84′	
158	−68°48.11′	40°05.05′	
159	−68°47.58′	40°03.99′	
160	−68°47.90′	40°03.25′	

TABLE 1 TO PARAGRAPH (a)(2)(ii)—Continued

Point	Longitude	Latitude	Note
161	−68°47.71′	40°02.93′	
162	−68°46.96′	40°03.36′	
163	−68°46.51′	40°04.02′	
164	−68°46.21′	40°03.41′	
165	−68°45.61′	40°03.36′	
166	−68°45.44′	40°03.86′	
167	−68°45.08′	40°03.60′	
168	−68°45.11′	40°04.24′	
169	−68°44.63′	40°04.06′	
170	−68°44.12′	40°04.58′	
171	−68°43.78′	40°02.68′	
172	−68°42.97′	40°03.02′	
173	−68°42.28′	40°01.90′	
174	−68°41.01′	40°02.72′	
175	−68°41.16′	40°03.54′	
176	−68°41.50′	40°04.04′	
177	−68°41.06′	40°04.02′	
178	−68°40.15′	40°05.30′	
179	−68°39.31′	40°04.19′	
180	−68°38.69′	40°04.57′	
181	−68°37.78′	40°03.47′	
182	−68°37.07′	40°04.08′	
183	−68°36.76′	40°03.68′	
184	−68°36.36′	40°04.02′	
185	−68°36.55′	40°04.82′	
186	−68°35.91′	40°05.56′	
187	−68°35.16′	40°04.83′	
188	−68°33.63′	40°04.04′	
189	−68°32.76′	40°04.76′	
190	−68°32.44′	40°05.91′	
191	−68°31.58′	40°05.48′	
192	−68°30.88′	40°05.81′	
193	−68°30.89′	40°06.29′	
194	−68°30.29′	40°06.40′	
195	−68°31.11′	40°06.95′	
196	−68°30.46′	40°07.60′	
197	−68°30.46′	40°08.19′	
198	−68°29.29′	40°08.05′	
199	−68°29.48′	40°09.55′	
200	−68°30.08′	40°11.48′	
201	−68°28.16′	40°10.69′	
202	−68°27.41′	40°10.95′	
203	−68°27.66′	40°10.26′	
204	−68°26.67′	40°09.09′	
205	−68°26.81′	40°07.63′	
206	−68°25.20′	40°06.46′	
207	−68°24.46′	40°06.12′	
208	−68°24.07′	40°07.70′	
209	−68°23.39′	40°07.29′	
210	−68°22.17′	40°07.15′	
211	−68°21.86′	40°08.26′	
212	−68°22.03′	40°08.77′	
213	−68°21.58′	40°08.86′	
214	−68°20.52′	40°09.57′	
215	−68°19.88′	40°09.36′	
216	−68°19.14′	40°10.44′	
217	−68°18.51′	40°10.02′	
218	−68°17.72′	40°09.64′	
219	−68°17.76′	40°10.66′	
220	−68°16.86′	40°10.68′	
221	−68°16.78′	40°11.65′	
222	−68°16.70′	40°12.27′	
223	−68°16.81′	40°13.24′	
224	−68°16.29′	40°14.68′	
225	−68°14.75′	40°13.04′	
226	−68°14.00′	40°12.79′	
227	−68°13.88′	40°12.21′	
228	−68°13.14′	40°11.49′	
229	−68°13.30′	40°12.07′	
230	−68°12.84′	40°12.48′	
231	−68°12.54′	40°13.08′	
232	−68°12.20′	40°12.80′	

TABLE 1 TO PARAGRAPH (a)(2)(ii)—Continued

Point	Longitude	Latitude	Note
233	−68°11.51′	40°13.48′	
234	−68°10.65′	40°12.05′	
235	−68°10.05′	40°13.00′	
236	−68°08.65′	40°12.16′	
237	−68°08.33′	40°13.06′	
238	−68°08.60′	40°14.17′	
239	−68°08.15′	40°15.30′	
240	−68°08.33′	40°15.56′	
241	−68°09.02′	40°16.17′	
242	−68°08.73′	40°16.56′	
243	−68°09.02′	40°17.94′	
244	−68°08.82′	40°18.63′	
245	−68°09.14′	40°21.96′	
246	−68°09.19′	40°22.96′	
247	−68°07.89′	40°24.16′	
248	−68°08.53′	40°22.91′	
249	−68°08.36′	40°21.85′	
250	−68°07.94′	40°20.88′	
251	−68°07.22′	40°19.75′	
252	−68°06.28′	40°17.81′	
253	−68°05.00′	40°16.41′	
254	−68°03.61′	40°17.70′	
255	−68°03.27′	40°15.88′	
256	−68°02.93′	40°15.07′	
257	−68°01.95′	40°14.69′	
258	−68°00.78′	40°15.22′	
259	−68°00.67′	40°15.85′	
260	−67°59.14′	40°14.75′	
261	−67°58.80′	40°15.83′	
262	−67°58.28′	40°15.58′	
263	−67°57.85′	40°16.63′	
264	−67°57.58′	40°17.38′	
265	−67°56.51′	40°16.19′	
266	−67°55.99′	40°16.45′	
267	−67°55.23′	40°14.90′	
268	−67°54.31′	40°16.24′	
269	−67°53.88′	40°17.41′	
270	−67°52.96′	40°16.95′	
271	−67°52.29′	40°17.18′	
272	−67°52.46′	40°19.25′	
273	−67°52.26′	40°19.59′	
274	−67°52.88′	40°20.05′	
275	−67°52.54′	40°20.86′	
276	−67°53.31′	40°21.24′	
277	−67°53.07′	40°22.08′	
278	−67°51.62′	40°21.24′	
279	−67°51.26′	40°20.48′	
280	−67°49.97′	40°18.81′	
281	−67°49.29′	40°18.78′	
282	−67°49.49′	40°18.49′	
283	−67°49.40′	40°18.13′	
284	−67°49.12′	40°18.09′	
285	−67°47.94′	40°15.79′	
286	−67°46.47′	40°16.00′	
287	−67°46.23′	40°16.37′	
288	−67°45.61′	40°16.18′	
289	−67°45.80′	40°16.54′	
290	−67°45.66′	40°17.53′	
291	−67°45.34′	40°18.75′	
292	−67°44.52′	40°18.25′	
293	−67°44.13′	40°18.39′	
294	−67°43.50′	40°18.84′	
295	−67°43.42′	40°18.00′	
296	−67°42.81′	40°18.27′	
297	−67°42.61′	40°17.62′	
298	−67°41.69′	40°17.88′	
299	−67°41.81′	40°19.20′	
300	−67°42.61′	40°20.29′	
301	−67°39.96′	40°22.27′	
302	−67°40.38′	40°24.07′	
303	−67°39.92′	40°25.32′	
304	−67°39.77′	40°24.13′	

TABLE 1 TO PARAGRAPH (a)(2)(ii)—Continued

Point	Longitude	Latitude	Note
305	−67°39.64′	40°23.12′	
306	−67°39.20′	40°21.31′	
307	−67°39.88′	40°20.41′	
308	−67°39.06′	40°19.39′	
309	−67°37.75′	40°18.86′	
310	−67°37.54′	40°19.41′	
311	−67°36.18′	40°19.12′	
312	−67°35.49′	40°20.23′	
313	−67°34.74′	40°19.65′	
314	−67°34.16′	40°21.13′	
315	−67°33.06′	40°20.46′	
316	−67°32.36′	40°21.41′	
317	−67°31.99′	40°20.77′	
318	−67°30.93′	40°20.91′	
319	−67°30.69′	40°20.52′	
320	−67°30.02′	40°21.66′	
321	−67°29.38′	40°21.09′	
322	−67°28.94′	40°21.57′	
323	−67°28.35′	40°22.81′	
324	−67°27.79′	40°22.19′	
325	−67°26.75′	40°21.57′	
326	−67°25.66′	40°22.31′	
327	−67°25.43′	40°22.61′	
328	−67°25.30′	40°23.42′	
329	−67°25.36′	40°24.34′	
330	−67°25.16′	40°24.64′	
331	−67°25.53′	40°24.93′	
332	−67°24.73′	40°25.43′	
333	−67°24.13′	40°27.58′	
334	−67°23.69′	40°24.23′	
335	−67°22.74′	40°23.27′	
336	−67°21.70′	40°23.12′	
337	−67°21.33′	40°23.77′	
338	−67°20.68′	40°23.40′	
339	−67°20.05′	40°24.39′	
340	−67°19.11′	40°23.85′	
341	−67°18.75′	40°25.17′	
342	−67°18.09′	40°24.77′	
343	−67°17.32′	40°25.14′	
344	−67°17.33′	40°25.59′	
345	−67°16.37′	40°25.50′	
346	−67°15.62′	40°25.40′	
347	−67°15.19′	40°25.64′	
348	−67°14.76′	40°26.24′	
349	−67°14.99′	40°26.93′	
350	−67°13.99′	40°26.63′	
351	−67°13.29′	40°27.31′	
352	−67°12.58′	40°26.87′	
353	−67°12.77′	40°27.74′	
354	−67°12.23′	40°28.01′	
355	−67°12.05′	40°27.56′	
356	−67°11.37′	40°27.75′	
357	−67°10.84′	40°27.12′	
358	−67°10.19′	40°27.14′	
359	−67°09.05′	40°28.84′	
360	−67°07.83′	40°28.25′	
361	−67°07.55′	40°28.65′	
362	−67°07.58′	40°29.49′	
363	−67°05.80′	40°28.71′	
364	−67°04.83′	40°29.41′	
365	−67°04.52′	40°29.86′	
366	−67°03.56′	40°29.83′	
367	−67°03.27′	40°31.27′	
368	−67°01.67′	40°30.25′	
369	−67°00.06′	40°31.03′	
370	−66°59.48′	40°31.63′	
371	−67°00.01′	40°32.61′	
372	−66°59.56′	40°32.78′	
373	−67°00.34′	40°34.03′	
374	−67°01.15′	40°34.92′	
375	−67°01.25′	40°36.83′	
376	−66°59.94′	40°35.55′	

TABLE 1 TO PARAGRAPH (a)(2)(ii)—Continued

Point	Longitude	Latitude	Note
377	−66°59.40′	40°35.40′	
378	−66°58.89′	40°35.52′	
379	−66°58.73′	40°34.91′	
380	−66°58.44′	40°34.94′	
381	−66°58.13′	40°35.50′	
382	−66°57.52′	40°34.93′	
383	−66°57.43′	40°35.42′	
384	−66°56.72′	40°35.16′	
385	−66°56.44′	40°35.81′	
386	−66°56.09′	40°35.36′	
387	−66°55.56′	40°35.65′	
388	−66°55.61′	40°34.90′	
389	−66°54.85′	40°34.42′	
390	−66°54.68′	40°35.40′	
391	−66°52.45′	40°36.18′	
392	−66°52.51′	40°36.80′	
393	−66°51.93′	40°36.82′	
394	−66°51.88′	40°37.40′	
395	−66°51.38′	40°37.30′	
396	−66°51.44′	40°37.81′	
397	−66°50.36′	40°37.77′	
398	−66°50.78′	40°38.81′	
399	−66°49.27′	40°38.41′	
400	−66°48.84′	40°38.70′	
401	−66°49.25′	40°39.85′	
402	−66°47.92′	40°39.57′	
403	−66°47.83′	40°39.82′	
404	−66°47.79′	40°40.82′	
405	−66°46.91′	40°40.33′	
406	−66°46.02′	40°40.07′	
407	−66°45.89′	40°41.47′	
408	−66°44.79′	40°41.19′	
409	−66°44.30′	40°41.37′	
410	−66°44.17′	40°42.32′	
411	−66°43.43′	40°42.42′	
412	−66°42.39′	40°42.67′	
413	−66°42.87′	40°44.75′	
414	−66°42.49′	40°45.21′	
415	−66°42.67′	40°45.83′	
416	−66°43.02′	40°46.23′	
417	−66°41.12′	40°45.96′	
418	−66°40.98′	40°45.61′	
419	−66°40.63′	40°45.35′	
420	−66°39.37′	40°45.98′	
421	−66°39.74′	40°46.65′	
422	−66°39.99′	40°46.93′	
423	−66°39.23′	40°46.97′	
424	−66°38.17′	40°47.99′	
425	−66°37.69′	40°47.13′	
426	−66°36.94′	40°47.36′	
427	−66°37.05′	40°47.83′	
428	−66°36.49′	40°47.87′	
429	−66°36.12′	40°48.59′	
430	−66°35.63′	40°48.13′	
431	−66°35.30′	40°48.35′	
432	−66°35.35′	40°49.96′	
433	−66°34.96′	40°50.30′	
434	−66°34.50′	40°50.33′	
435	−66°34.26′	40°50.91′	
436	−66°34.76′	40°51.34′	
437	−66°33.57′	40°51.38′	
438	−66°34.29′	40°52.10′	
439	−66°33.55′	40°52.16′	
440	−66°33.32′	40°52.70′	
441	−66°32.88′	40°52.69′	
442	−66°32.62′	40°51.96′	
443	−66°32.01′	40°51.53′	
444	−66°30.28′	40°53.07′	
445	−66°30.69′	40°53.61′	
446	−66°30.15′	40°53.84′	
447	−66°30.14′	40°54.17′	
448	−66°30.67′	40°54.62′	

TABLE 1 TO PARAGRAPH (a)(2)(ii)—Continued

Point	Longitude	Latitude	Note
449	−66°28.81′	40°54.47′	
450	−66°28.84′	40°55.04′	
451	−66°28.16′	40°55.03′	
452	−66°27.30′	40°55.99′	
453	−66°25.16′	40°58.14′	
454	−66°24.11′	40°59.64′	
455	−66°24.37′	41°00.32′	
456	−66°23.57′	41°00.33′	
457	−66°22.61′	41°01.68′	
458	−66°23.05′	41°02.64′	
459	−66°24.77′	41°03.86′	
460	−66°24.03′	41°04.11′	
461	−66°24.60′	41°04.95′	
462	−66°22.60′	41°04.23′	
463	−66°21.17′	41°04.35′	
464	−66°21.11′	41°05.02′	
465	−66°19.77′	41°04.45′	
466	−66°18.07′	41°06.00′	
467	−66°18.24′	41°07.82′	
468	−66°17.07′	41°08.68′	
469	−66°16.90′	41°08.93′	
470	−66°16.86′	41°08.98′	(4)

Notes:
(3) POINT 17 represents where the western and northern boundaries meet.
(4) POINT 470 represents the U.S.-Canada Maritime Boundary.

(iii) The eastern and southern boundary (from Point 470) follows the U.S.-Canada Maritime Boundary southeasterly to its intersection with the outer limit of the U.S. Exclusive Economic Zone. The boundary then follows the outer limit of the U.S. Exclusive Economic Zone southwesterly back to its origin at POINT 01.

(b) *Mount Desert Rock Coral Protection Area.* (1) No vessel may fish with bottom-tending mobile gear, as defined in § 648.2, within the Mount Desert Rock Coral Protection Area described in this section, unless transiting pursuant to paragraph (d) of this section. Bottom-tending mobile gear includes, but is not limited to, otter trawls, beam trawls, hydraulic dredges, non-hydraulic dredges, and seines (with the exception of a purse seine).

(2) The Mount Desert Rock Coral Protection Area is defined by the following coordinates, connected in the order listed by straight lines:

TABLE 1 TO PARAGRAPH (b)

Point	Longitude	Latitude
MDR1	−68°13.16′	43°56.99′
MDR2	−68°12.00′	43°57.00′
MDR3	−68°11.45′	43°56.17′
MDR4	−68°12.21′	43°52.62′
MDR5	−68°14.32′	43°52.11′
MDR1	−68°13.16′	43°56.99′

(c) *Outer Schoodic Ridge Coral Protection Area.* (1) No vessel may fish with bottom-tending mobile gear, as defined in § 648.2, within the Outer Schoodic Ridge Coral Protection Area described in this section, unless transiting pursuant to paragraph (d) of this section. Bottom-tending mobile gear includes, but is not limited to, otter trawls, beam trawls, hydraulic dredges, non-hydraulic dredges, and seines (with the exception of a purse seine).

(2) The Outer Schoodic Ridge Coral Protection Area is defined by the following coordinates, connected in the order listed by straight lines:

TABLE 1 TO PARAGRAPH (c)(2)

Point	Longitude	Latitude
OSR1	−67°35.60′	44°13.49′
OSR2	−67°33.10′	44°12.56′
OSR3	−67°39.70′	44°02.48′
OSR4	−67°42.29′	44°03.48′
OSR1	−67°35.60′	44°13.49′

(d) *Transiting.* Vessels may transit the New England Deep-Sea Coral Management Areas defined in this section, provided bottom-tending trawl nets are out of the water and stowed on the reel and any other fishing gear that is prohibited in these areas is onboard, out of the water, and not deployed. Fishing gear is not required to meet the definition of ''not available for immediate use'' in § 648.2, when a vessel transits the New England Deep-Sea Coral Management Areas.

(e) *Framework adjustments.* The Council may at any time initiate a framework adjustment to add or adjust management measures within the New England Deep-Sea Coral Management Areas if it finds that action is necessary to meet or be consistent with the goals and objectives of those areas. The Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analyses, and opportunity to comment on them prior to and at the second Council meeting. Measures that may be changed or implemented through framework action include:

(1) Adding, revising, or removing coral areas;

(2) Changing fishing restrictions in coral areas; and

(3) Developing new, or changing existing, coral area fishery access or exploratory fishing programs.

[FR Doc. 2019–28424 Filed 1–2–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 85, No. 2
Friday, January 3, 2020

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

DEPARTMENT OF AGRICULTURE

Forest Service

Hood-Willamette Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Hood-Willamette Resource Advisory Committee (RAC) will meet in Keizer Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and make recommendations on Title II project proposals and on proposals for new recreation fees.

DATES: The meeting will be held on January 14, 2020 beginning at 9:00 a.m. All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at Keizer Community Center, Claggett Room, 930 Chemawa Road NE, Keizer, Oregon 97303.

Additional RAC information, including the meeting agenda and the meeting summary/minutes will be available at the following website: *https://www.fs.usda.gov/main/willamette/workingtogether/advisorycommittees*.

Written comments may be submitted as described under *Supplementary Information*. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Willamette Supervisor's Interagency Office in Springfield, OR. Please call ahead to facilitate entry into the building.

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

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

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Introduce all the RAC members to one another;
2. Update all RAC members on the status of the SRS program, and the pending nomination package for new RAC members;
3. Review and discuss Title II project proposals submited during the 2019 solicitation window. Hear presentations from project sponsors and address RAC questions about proposals; and
4. Hear project information and background on a new recreation permit fee being proposed in conjunction with the Central Cascades Wilderness Permit System.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by January 10, 2020 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Jennifer Sorensen, RAC Coordinator, 3106 Pierce Parkway, Suite D, Springfield, Oregon 97477; by email to *Jennifer.Sorensen@usda.gov*.

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

Dated: December 27, 2019.

Ann Goode,

Acting Director, Office of Regulatory and Management Services, USDA Forest Service.

[FR Doc. 2019–28350 Filed 1–2–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lynn Canal Icy Strait Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting and new project submissions.

SUMMARY: The Lynn Canal Icy Strait Resource Advisory Committee (RAC) will meet by telephone conference. The RAC is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the RAC is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act.

DATES: The meeting will be held on Tuesday, January 14, 2020 at 4:00 p.m. by phone conference, 888–844–9904, access code 6214820#. Written comments may be submitted as described under *Supplementary Information.* All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Admiralty Island National Monument Ranger District, 8510 Mendenhall Loop Road, Juneau, Alaska 99801. Please call ahead at 907–789–6212 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Robin Hasselquist, RAC Coordinator, by phone at 907–789–6212 or via email at *robin.hasselquist@usda.gov*. RAC information can be found at the following website: *http://www.fs.usda.gov/main/pts/specialprojects/racweb*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339

between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

(1) Approve previous minutes;

(2) Summarize status of previously approved and funded projects;

(3) Discuss any new projects for which project submission forms have been completed by the deadline of December 27, 2020 and provided in the pre-work package; and

(4) Following the public meeting: Vote on projects to move forward for funding approval.

The agenda will include time for people to make oral statement of three minutes or less. Individuals wishing to make an oral statement should request in writing by Tuesday, January 7, 2020, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent by January 7, 2020 to Robin Hasselquist, RAC Coordinator, 8510 Mendenhall Loop Road, Juneau, Alaska 99801 or by email to *robin.hasselquist@usda.gov,* or via facsimile 907–586–8808. The agenda will also include time for people to describe new projects that they submitted via a completed project submission form due via email by December 27, 2019 to *robin.hasselquist@usda.gov* or via facsimile 907–586–8808. To receive a copy of the project submission form please contact Robin Hasselquist. Project statements will be limited to three minutes.

Dated: December 27, 2019.

Ann Goode,

Acting Director, Office of Regulatory and Management Services, USDA Forest Service.

[FR Doc. 2019–28351 Filed 1–2–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–266–2019]

Foreign-Trade Zone 31—Granite City, Illinois; Application for Subzone; Walgreen Co.; Mt. Vernon, Illinois

An application has been submitted to the Foreign-Trade Zones Board (the Board) by America's Central Port District, grantee of FTZ 31, requesting subzone status for the facility of Walgreen Co., located in Mt. Vernon, Illinois. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on December 26, 2019.

The proposed subzone (22.95 acres) is located at 5100 Lake Terrace Drive, Mt. Vernon. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 31.

In accordance with the Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is February 12, 2020. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to February 27, 2020.

A copy of the application will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: December 26, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–28331 Filed 1–2–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967; C–570–968]

Aluminum Extrusions From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Determination and Notice of Amended Final Determination of Circumvention Pursuant to Court Decision

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

SUMMARY: On December 18, 2019, the United States Court of International Trade (the Court) issued final judgment in *Tai-Ao Aluminum (Taishan) Co., Ltd. et al.* v. *United States,* Consol. Court No. 17–00216, Slip Op. 19–164 (CIT December 18, 2019), sustaining the Department of Commerce's (Commerce) remand results for the anti-circumvention determination of the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (China). Commerce is notifying the public that the Court has made a final judgment that is not in harmony with Commerce's final circumvention determination, and that Commerce is amending the final circumvention determination with respect to certain importers.

DATES: December 28, 2019.

FOR FURTHER INFORMATION CONTACT: Heather Lui or Erin Kearney, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0016 or (202) 482–0167, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Final Circumvention Determination* on July 26, 2017, finding that certain extruded aluminum products that meet the chemical specifications for 5050-grade aluminum alloy, which are heat-treated, are circumventing the AD and CVD orders [1] on aluminum extrusions from China.[2] Tai-Ao Aluminum (Taishan) Co., Ltd. and TAAL America Ltd. (collectively, Tai-Ao) and Regal Ideas Inc. (Regal) filed an action before the Court to challenge Commerce's *Final Circumvention Determination.*

On June 7, 2019, the Court affirmed Commerce's determination that heat-treated extruded aluminum products from China that meet the chemical specifications for 5050-grade aluminum alloy, regardless of producer, exporter, or importer, are circumventing the *Orders* under section 781(d) of the Tariff Act of 1930, as amended (the Act) as later-developed merchandise.[3] However, the Court found that

[1] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011); and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) (collectively, *Orders*).

[2] *See Aluminum Extrusions from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders and Rescission of Minor Alterations Anti-Circumvention Inquiry,* 82 FR 34630 (July 26, 2017) (*Final Circumvention Determination*) and accompanying Issues and Decision Memorandum.

[3] *See Tai-Ao Aluminum (Taishan) Co., Ltd. et al.* v. *United States,* Court No. 17–00216, Slip Op. 19–70 (CIT June 7, 2019) (*Remand Order*).

Commerce erred in retroactively applying the determination to the date of the *Initiation Notice,*[4] rather than the date of the *Preliminary Determination,*[5] with respect to Tai-Ao and Regal, and remanded the issue to Commerce ''to reformulate its liquidation instructions consistent with this opinion {.}''[6]

Commerce issued its Results of Redetermination on July 22, 2019, in which it stated its intent to instruct U.S. Customs and Border Protection (CBP) that entries of extruded aluminum products that meet the chemical specifications for 5050 grade aluminum alloy and are heat-treated, are outside the scope of the *Orders* if they: (1) Were the subject of Commerce's *Final Circumvention Determination;* (2) were exported from China by Tai-Ao Aluminum (Taishan) Co., Ltd. and/or imported into the United States by TAAL America Ltd.; (3) were entered, or withdrawn from warehouse, for consumption during the period March 21, 2016 through November 13, 2016; and (4) remain unliquidated as of September 15, 2017.[7] Commerce included draft instructions to CBP related to Tai-Ao in its Results of Redetermination and stated its intent to issue those instructions: (1) Should the Court issue a final decision in which it affirms Commerce's final remand redetermination; and (2) after Commerce has issued its ''Notice of Court Decision Not in Harmony With Final Determination of Circumvention and Notice of Amended Final Determination of Circumvention Pursuant to Court Decision.''[8] With respect to Regal, Commerce stated in its Results of Redetermination that there are no applicable entries which have been imported by Regal during the period March 21, 2016 through November 13, 2016. Accordingly, Commerce did not prepare instructions with respect to Regal.[9]

On December 18, 2019, the Court sustained Commerce's Results of Redetermination, and entered final judgment.[10]

Timken Notice

In its decision in *Timken,*[11] as clarified by *Diamond Sawblades,*[12] the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(e) of the Act, Commerce must publish a notice of a court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's December 18, 2019 judgment sustaining Commerce's Results of Redetermination constitutes a final decision of the Court that is not in harmony with Commerce's *Final Circumvention Determination.* This notice is published in fulfillment of the publication requirement of *Timken.*

Amended Final Determination of Circumvention

Commerce will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed or, if appealed, upheld by the CAFC, Commerce will instruct CBP that entries of extruded aluminum products that meet the chemical specifications for 5050 grade aluminum alloy and are heat-treated, are outside the scope of the *Orders* if they: (1) Were the subject of Commerce's *Final Circumvention Determination;* (2) were exported from China by Tai-Ao Aluminum (Taishan) Co., Ltd. and/or imported into the United States by TAAL America Ltd.; (3) were entered, or withdrawn from warehouse, for consumption during the period March 21, 2016 through November 13, 2016; and (4) remain unliquidated as of September 15, 2017.

This notice is issued and published in accordance with sections 516(A)(e), 781(d), and 777(i)(1) of the Act.

Dated: December 27, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–28389 Filed 1–2–20; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See Aluminum Extrusions from the People's Republic of China: Initiation of Anti-Circumvention Inquiry,* 81 FR 15039 (March 21, 2016) (*Initiation Notice*).

[5] *See Aluminum Extrusions from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders and Intent To Rescind Minor Alterations Anti-Circumvention Inquiry,* 81 FR 79444 (November 14, 2016) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

[6] *See Remand Order.*

[7] *See* Final Results of Redetermination Pursuant to Court Remand, *Tai-Ao Aluminum (Taishan) Co., Ltd. et al.* v. *United States,* Court No. 17–00216, Slip Op. 19–70 (CIT June 7, 2019), dated July 22, 2019 (Results of Redetermination).

[8] *Id.*

[9] *Id.*

[10] *See Tai-Ao Aluminum (Taishan) Co., Ltd. et al.* v. *United States,* Court No. 17–00216, Slip Op. 19–164 (CIT Dec. 18, 2019).

[11] *See Timken Co.,* v. *United States,* 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

[12] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–809]

Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation: 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) continues to find that Novolipetsk Steel (NLMK), Severstal PAO, and Severstal Export GmbH made no shipments of certain hot-rolled flat-rolled carbon-quality steel products (hot-rolled steel) from the Russian Federation during the period of review (POR) of December 1, 2017 through November 30, 2018.

DATES: Applicable January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Preston N. Cox, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 2019, Commerce published the *Preliminary Results.*[1] We invited interested parties to comment on the *Preliminary Results,* but we received no comments. Accordingly, we made no changes to the *Preliminary Results.*

Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

For the purposes of this order, ''hot-rolled steel'' means certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness.

Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a

[1] *See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation: Preliminary No Shipments Determination of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 53408 (October 7, 2019) (*Preliminary Results*).

closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.012 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this agreement unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this agreement:

—Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including *e.g.,* ASTM specifications A543, A387, A514, A517, and A506).
—SAE/AISI grades of series 2300 and higher.
—Ball bearing steels, as defined in the HTSUS.
—Tool steels, as defined in the HTSUS.
—Silica-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
—ASTM specifications A710 and A736.
—USS Abrasion-resistant steels (USS AR 400, USS AR 500).
—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	0.90% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Mo
0.10–0.16%	0.70%–0.90%	0.025% Max	0.006% Max	0.30–0.50%	0.50–0.70%	0.25% Max	0.20% Max	0.21% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	V(wt.)	Cb
0.10–0.14%	1.30–1.80%	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.70%	0.20% Max	0.10% Max	0.08% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Nb	Ca	Al
0.15% Max	1.40% Max	0.025% Max	0.010% Max	0.50% Max	1.00% Max	0.50% Max	.20% Max	0.005% Max	Treated	0.01–0.07%

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤0.148 inches and 65,000 psi minimum for thicknesses >0.148 inches; Tensile Strength = 80,000 psi minimum.

Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm² and 640 N/mm² and an elongation percentage ≥26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm² and 690 N/mm² and an elongation percentage ≥25 percent for thicknesses of 2mm and above.

Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

Grade ASTM A570–50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119

inches nominal), mill edge and skin passed, with a minimum copper content of 0.20 percent.

The covered merchandise is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered include: Vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.01.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the covered merchandise is dispositive.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that NLMK, Severstal PAO, and Severstal Export GmbH had no shipments of subject merchandise during the POR.[2] As we have not received any information to contradict our preliminary finding, we continue to find that NLMK, Severstal PAO, and Severstal Export GmbH did not have any shipments of subject merchandise during the POR and intend to issue appropriate instructions to U.S. Customs and Border Protection (CBP) based on the final results of this review.[3]

Assessment Rates

Commerce determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b).

Further, because we continue to find in these final results that NLMK, Severstal PAO, and Severstal Export GmbH had no shipments of subject merchandise during the POR, any suspended entries that entered under NLMK, Severstal PAO, and Severstal Export GmbH case numbers (*i.e.,* at that company's rate) will be liquidated at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[4] We intend to issue liquidation instructions for NLMK, Severstal PAO, and Severstal Export GmbH to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon 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 date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for NLMK, Severstal PAO, and Severstal Export GmbH will remain unchanged from the rate assigned to them in the most recently completed review of those companies; (2) for merchandise exported by manufacturers or exporters not covered in this 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; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recently completed segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 184.56 percent, the all-others rate established in the less-than-fair-value investigation.[5] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an 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). 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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: December 19, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–28390 Filed 1–2–20; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Preliminary Results.*

[3] *See, e.g., Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012–2013,* 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012–2013,* 79 FR 51306 (August 28, 2014); *see also Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[4] *See Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine,* 67 FR 65945, 65947 (October 29, 2002).

[5] *See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation: Final Results and Rescission of Antidumping Duty Administrative Review;* 2016–2017, 84 FR 38948 (August 8, 2019).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA002]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is

scheduling a public meeting of its Habitat Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, January 22, 2020 at 10 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Four Points by Sheraton, Wakefield, MA 01880; Phone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The committee will conduct its annual review of Council research priorities related to habitat. They will develop comments on Coonamessett Farm Foundation EFP (if published/available for comment). Also on the agenda will be an Offshore wind briefing and discussion. They will be updated on development of habitat policies for aquaculture, submarine cables, and floating wind. They will also receive an update on Northeast Regional Habitat Assessment. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: December 30, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–28400 Filed 1–2–20; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to the Procurement List.

SUMMARY: The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* February 2, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN(s)—Product Name(s):

7530–00–NIB–1274—Surface Safe Sign Label, Removable, Laser/Inkjet, White, 3½″ x 5″, 15 Sheets

7530–00–NIB–1275—Surface Safe Sign Label, Removable, Laser/Inkjet, White, 5″ x 7″, 15 Sheets

7530–00–NIB–1276—Surface Safe Sign Label, Removable, Laser/Inkjet, White, 7″ x 10″, 15 Sheets

7530–00–NIB–1277—Surface Safe Sign Label, Removable, Laser/Inkjet, White, 8″ x 8″, 15 Sheets

7530–00–NIB–1220—Labels, Self-Laminating, Laser/Inkjet, White, 2 5/16″ x 3 5/16″, 25 Sheets

7530–00–NIB–1223—Labels, Self-Laminating, Laser/Inkjet, White, 1 1/32″ x 3½″, 25 Sheets

7530–00–NIB–1278—Business Cards, Uncoated, Two-Sided Printing, White, 2″ x 3½″, 200 Cards

7530–00–NIB–1287—Business Cards, Uncoated, Two-Sided Printing, White, 2″ x 3½″, 1000 Cards

7530–00–NIB–1279—Tent Cards, Uncoated, Embossed, Two-Sided Printing, White, 3½″ x 11″, 50 Cards

7530–00–NIB–1280—Tent Cards, Uncoated, Embossed, Two-Sided Printing, White, 2½″ x 8½″, 100 Cards

7530–00–NIB–1270—Name Badge, Laser/Inkjet, 2⅓″ x 3⅜″, White, 50 Sheets

Mandatory Source of Supply: North Central Sight Services, Inc., Williamsport, PA

Mandatory For: Total Government Requirement

Contracting Activity: FEDERAL ACQUISITION SERVICE, GSA/FAS ADMIN SVCS ACQUISITION BR(2)

Services

Service Type: Fourth Party Logistics (4PL) Sourcing and Logistics Support Services

Mandatory For: DoD Locations in the United States and Territories as determined by the General Services Administration

Mandatory Source of Supply: To be from among the pool of current AbilityOne Program Base Supply Center Operators, as follows:

Alabama Industries for the Blind, Talladega, AL

Alphapointe, Kansas City, MO

Arizona Industries for the Blind, Phoenix, AZ

Associated Industries for the Blind/Beyond Vision. Milwaukee, WI

Beacon Lighthouse, Inc., Wichita Falls, TX

BH Services Inc., Ellsworth AFB, SD

Blind Industries & Services of MD, Baltimore, MD

Central Association for the Blind, Utica, NY

Cincinnati Association for the Blind & Visually Impaired, Cincinnati, OH

Envision Industries, Wichita, KS

Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC

Industries for the Blind and Visually Impaired, Inc., West Allis, WI

LC Industries, Durham, NC

Louisiana Association for the Blind, Shreveport, LA

RLCB Inc., Raleigh, NC

San Antonio Lighthouse for the Blind, San Antonio, TX

Lighthouse for the Blind, Inc. Seattle, Seattle, WA

South Texas Lighthouse for the Blind, Corpus Christi, TX

Virginia Industries for the Blind, Charlottesville, VA

Contracting Activity: General Services

Administration

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2019–28369 Filed 1–2–20; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs; 2020–21 Award Year Deadline Dates

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces the 2020–21 award year deadline dates for the submission of requests and documents from postsecondary institutions for the Federal Perkins Loan (Perkins Loan) Program, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) programs (collectively, the ''Campus-Based programs''), Catalog of Federal Domestic Assistance (CFDA) numbers 84.038, 84.033, and 84.007.

DATES: The deadline dates for each program are specified in the chart in the DEADLINE DATES section of this notice.

FOR FURTHER INFORMATION CONTACT: Shannon Mahan, Director, Grants & Campus-Based Programs, U.S. Department of Education, Federal Student Aid, 830 First Street NE, Union Center Plaza, Room 64C4, Washington, DC 20202–5453. Telephone: (202) 377–3019. Email: *shannon.mahan@ed.gov.*

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

SUPPLEMENTARY INFORMATION: The authority to award new Federal Perkins Loans to students has expired. Institutions that continue to service their Perkins Loans (or contract with a third-party servicer for servicing) are required to report all Perkins Loan activity on the institution's Fiscal Operations Report and Application to Participate (FISAP).

The FWS program encourages the part-time employment of needy undergraduate and graduate students to help pay for their education and to involve the students in community service activities.

The FSEOG program encourages institutions to provide grants to exceptionally needy undergraduate students to help pay for their education.

The Perkins Loan, FWS, and FSEOG programs are authorized by parts E and C, and part A, subpart 3, respectively, of title IV of the Higher Education Act of 1965, as amended.

Throughout the year, in its ''Electronic Announcements,'' the Department will continue to provide additional information for the individual deadline dates listed in the table under the DEADLINE DATES section of this notice. You will also find the information on the Information for Financial Aid Professionals (IFAP) website at: *www.ifap.ed.gov.*

Deadline Dates: The following table provides the 2020–21 award year deadline dates for the submission of applications, reports, waiver requests, and other documents for the Campus-Based programs. Institutions must meet the established deadline dates to ensure consideration for funding or waiver, as appropriate.

2020–21 AWARD YEAR DEADLINE DATES

What does an institution submit?	How is it submitted?	What is the deadline for submission?
1. The Campus-Based Reallocation Form designated for the return of 2019–20 funds and the request for supplemental FWS funds for the 2020–21 award year.	The Reallocation Form must be submitted electronically through the Common Origination and Disbursement website at *https://cod.ed.gov*.	Monday, August 17, 2020.
2. The 2021–22 FISAP (reporting 2019–20 expenditure data and requesting funds for 2021–22).	The FISAP must be submitted electronically through the Common Origination and Disbursement website at *https://cod.ed.gov*.	Thursday, October 1, 2020.
	The FISAP signature page must be signed by the institution's Chief Executive Officer with an original signature and mailed to: FISAP Administrator, U.S. Department of Education, P.O. Box 9003, Niagara Falls, NY 14302. For overnight delivery, mail to: FISAP Administrator, 2429 Military Road, Suite 200, Niagara Falls, NY 14304.	
3. The Work Colleges Program Report of 2019–20 award year expenditures.	The Work Colleges Program Report of Expenditures must be submitted electronically through the Common Origination and Disbursement website at *https://cod.ed.gov*.	Thursday, October 1, 2020.
	The signature page must be signed by the institution's Chief Executive Officer with an original signature and sent to the U.S. Department of Education using one of the following methods: Hand deliver to: U.S. Department of Education, Federal Student Aid, Grants & Campus-Based Division, 830 First Street NE, Room 62B1, ATTN: Work Colleges Coordinator, Washington, DC 20002 or Mail to: The address listed above for hand delivery. However, please use ZIP Code 20202–5453.	
4. The 2019–20 Financial Assistance for Students with Intellectual Disabilities Expenditure Report.	The Financial Assistance for Students with Intellectual Disabilities Expenditure Report must be submitted electronically through the Common Origination and Disbursement website at *https://cod.ed.gov*.	Thursday, October 1, 2020.

2020–21 AWARD YEAR DEADLINE DATES—Continued

What does an institution submit?	How is it submitted?	What is the deadline for submission?
	The signature page must be signed by the institution's Chief Executive Officer with an original signature and sent to the U.S. Department of Education using one of the following methods: Hand deliver to: U.S. Department of Education, Federal Student Aid, Grants & Campus-Based Division, CTP Program, 830 First Street NE, Room 64H1, Washington, DC 20002, or Mail to: The address listed above for hand delivery. However, please use ZIP Code 20202–5453.	
5. 2021–22 FISAP Edit Corrections.	FISAP Edit Corrections must be submitted electronically through the Common Origination and Disbursement website at *https://cod.ed.gov*.	Tuesday, December 15, 2020.
6. The 2021–22 Perkins Cash on Hand Update as of October 31, 2020.	The Perkins Cash on Hand Update must be submitted electronically through the Common Origination and Disbursement website at *https://cod.ed.gov*.	Tuesday, December 15, 2020.
7. Request for a waiver of the 2021–22 award year penalty for the underuse of 2019–20 award year funds.	The request for the waiver of penalty for underuse of funds and the justification must be submitted electronically through the Common Origination and Disbursement website at *https://cod.ed.gov*.	Monday, February 1, 2021.
8. The Institutional Application and Agreement for Participation in the Work Colleges Program for the 2021–22 award year.	The Institutional Application and Agreement for Participation in the Work Colleges Program must be submitted electronically through the Common Origination and Disbursement website at *https://cod.ed.gov*.	Monday, March 1, 2021.
	The signature page must be signed by the institution's Chief Executive Officer with an original signature and sent to the U.S. Department of Education using one of the following methods: Hand deliver to: U.S. Department of Education, Federal Student Aid, Grants & Campus-Based Division, 830 First Street NE, Room 62B1, ATTN: Work Colleges Coordinator, Washington, DC 20002 or Mail to: The address listed above for hand delivery. However, please use ZIP Code 20202–5453.	
9. Request for a waiver of the FWS Community Service Expenditure Requirement for the 2021–22 award year.	The request for the waiver of FWS Community Service Expenditure Requirement must be submitted electronically through the Common Origination and Disbursement website at *https://cod.ed.gov*.	Monday, April 19, 2021.

Notes:

- The deadline for electronic submissions is 11:59 p.m. (Eastern Time) on the applicable deadline date. Transmissions must be completed and accepted by 11:59 p.m. to meet the deadline.
- Paper documents that are sent through the U.S. Postal Service must be postmarked or you must have a mail receipt stamped by the applicable deadline date.
- Paper documents that are delivered by a commercial courier must be received no later than 4:30 p.m. (Eastern Time) on the applicable deadline date.
- The Secretary may consider on a case-by-case basis the effect that a major disaster, as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), or another unusual circumstance has on an institution in meeting the deadlines.

Proof of Mailing or Hand Delivery of Paper Documents

If you submit paper documents when permitted by mail or by hand delivery (or from a commercial courier), we accept as proof one of the following:

(1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(2) A legibly dated U.S. Postal Service postmark.

(3) A dated shipping label, invoice, or receipt from a commercial courier.

(4) Any other proof of mailing or delivery acceptable to the Secretary.

If you mail your paper documents through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

All institutions are encouraged to use certified or at least first-class mail.

The Department accepts hand deliveries from you or a commercial courier between 8:00:00 a.m. and 4:30:00 p.m., Eastern Time, Monday through Friday except Federal holidays.

Sources for Detailed Information on These Requests

A more detailed discussion of each request for funds or waiver is provided in specific ''Electronic Announcements,'' which are posted on the Department's IFAP website (*http://ifap.ed.gov*) at least 30 days before the established deadline date for the specific request. Information on these items is also found in the Federal Student Aid Handbook, which is also posted on the Department's IFAP website.

Applicable Regulations: The following regulations apply to these programs:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 673.

(3) Federal Perkins Loan Program, 34 CFR part 674.

(4) Federal Work-Study Program, 34 CFR part 675.

(5) Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

(6) Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600.

(7) Restrictions on Lobbying, 34 CFR part 82.

(8) Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), 34 CFR part 84.

(9) Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR part 3485.

(10) Drug and Alcohol Abuse Prevention, 34 CFR part 86.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or 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.

Program Authority: 20 U.S.C. 1070b *et seq.* and 1087aa *et seq.;* 42 U.S.C. 2751 *et seq.*

Dated: December 30, 2019.

Mark A. Brown,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 2019–28420 Filed 1–2–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1910–017; ER10–1911–017.
Applicants: Duquesne Power, LLC, Duquesne Light Company.
Description: Notice of Change in Status of the Duquesne MBR Sellers.
Filed Date: 12/23/19.
Accession Number: 20191223–5337.
Comments Due: 5 p.m. ET 1/13/20.

Docket Numbers: ER10–2129–014.
Applicants: Grays Harbor Energy LLC.
Description: Triennial Report of Grays Harbor Energy LLC.
Filed Date: 12/23/19.
Accession Number: 20191223–5343.
Comments Due: 5 p.m. ET 2/21/20.

Docket Numbers: ER10–2135–014.
Applicants: Spindle Hill Energy LLC.
Description: Triennial Report of Spindle Hill Energy LLC.
Filed Date: 12/23/19.
Accession Number: 20191223–5344.
Comments Due: 5 p.m. ET 2/21/20.

Docket Numbers: ER10–2384–009; ER10–2383–009; ER14–2820–009 ER14–2821–009.
Applicants: Mountain Wind Power, LLC, Mountain Wind Power II LLC, Spring Canyon Energy II LLC, Spring Canyon Energy III LLC.
Description: Updated Market Power Analysis in Northwest region of the Clearway Energy Group LLC Sellers.
Filed Date: 12/26/19.
Accession Number: 20191226–5192.
Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: ER10–2596–009; ER12–2200–005.
Applicants: Fowler Ridge II Wind Farm LLC, Mehoopany Wind Energy LLC.
Description: Market Power Update for Northeast Region of Fowler Ridge II Wind Farm LLC, et al.
Filed Date: 12/23/19.
Accession Number: 20191223–5355.
Comments Due: 5 p.m. ET 2/21/20.

Docket Numbers: ER19–1634–002; ER10–2196–006; ER10–2740–014; ER10–2742–013; ER13–1141–005; ER13–1142–005; ER13–1143–007; ER13–1144–007; ER14–152–010; ER15–1657–010; ER16–918–004; ER17–1849–005 ER19–1009–001; ER19–1633–002; ER19–1638–002 ER19–1793–001; ER19–1795–001; ER19–1796–001 ER19–1797–001; ER19–1798–001; ER19–1799–001 ER19–902–001; ER20–528–001.
Applicants: Bridgeport Energy LLC, Elgin Energy Center, LLC, Essential Power Massachusetts, LLC, Essential Power Newington, LLC, Essential Power OPP, LLC, Essential Power Rock Springs, LLC, Lakewood Cogeneration, L.P., Lincoln Power, L.L.C., Nautilus Power, LLC, Revere Power, LLC, Rhode Island State Energy Center, LP, Rocky Road Power, LLC, Rumford Power LLC, SEPG Energy Marketing Services, LLC, Tilton Energy LLC, Tiverton Power LLC, Valcour Altona Windpark, LLC, Valcour Bliss Windpark, LLC, Valcour Chateaugay Windpark, LLC, Valcour Clinton Windpark, LLC, Valcour Ellenburg Windpark, LLC, Valcour Wethersfield Windpark, LLC, Valcour Wind Energy, LLC.
Description: Updated Market Power Analysis for the Northeast Region of Bridgeport Energy LLC, et al.
Filed Date: 12/26/19.
Accession Number: 20191226–5191.
Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: ER20–319–001.
Applicants: Kimball Wind LLC.
Description: Tariff Amendment: Kimball Wind LLC Amended MBR Filing to be effective 11/6/2019.
Filed Date: 12/27/19.
Accession Number: 20191227–5063.
Comments Due: 5 p.m. ET 1/17/20.

Docket Numbers: ER20–662–000.
Applicants: PacifiCorp.
Description: Notice of Termination of Various Inactive Agreements of PacifiCorp.
Filed Date: 12/20/19.
Accession Number: 20191220–5176.
Comments Due: 5 p.m. ET 1/10/20.

Docket Numbers: ER20–686–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Baseline eTariff Filing: Open Access Transmission Tariff to be effective 3/23/2020.
Filed Date: 12/26/19.
Accession Number: 20191226–5175.
Comments Due: 5 p.m. ET 1/16/20.

Docket Numbers: ER20–687–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Compliance filing: Compliance with Order No. 845 to be effective 3/23/2020.
Filed Date: 12/27/19.
Accession Number: 20191227–5027.
Comments Due: 5 p.m. ET 1/17/20.

Docket Numbers: ER20–688–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Transmission Service Agreements to be effective 3/23/2020.
Filed Date: 12/27/19.
Accession Number: 20191227–5033.
Comments Due: 5 p.m. ET 1/17/20.

Docket Numbers: ER20–689–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Tri-State's Other Member Agreements #2 to be effective 3/23/2020.
Filed Date: 12/27/19.
Accession Number: 20191227–5064.
Comments Due: 5 p.m. ET 1/17/20.

Docket Numbers: ER20–690–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Tri-State's Other Member Agreements #3 to be effective 3/23/2020.
Filed Date: 12/27/19.
Accession Number: 20191227–5065.
Comments Due: 5 p.m. ET 1/17/20.

Docket Numbers: ER20–691–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Tri-State's Other Member Agreements #1 to be effective 3/23/2020.
Filed Date: 12/27/19.
Accession Number: 20191227–5066.
Comments Due: 5 p.m. ET 1/17/20.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF87–483–006.
Applicants: AES Hawaii, LLC.
Description: Notice of Change of Qualifying Facility Status, et al. of AES Hawaii, LLC.
Filed Date: 12/26/19.
Accession Number: 20191226–5187.
Comments Due: 5 p.m. ET 1/16/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 27, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–28398 Filed 1–2–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL20–15–000]

North Carolina Eastern Municipal Power Agency; Notice of Petition for Declaratory Order

Take notice that on December 23, 2019, pursuant to sections 205 and 206 of the Federal Power Act,[1] Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2019), North Carolina Eastern Municipal Power Agency (Petitioner), filed a petition for declaratory order requesting that the Commission terminate a controversy or remove uncertainty[2] arising under a power supply agreement subject to the Commission's regulatory jurisdiction under sections 205 and 206 of the Federal Power Act,[3] as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on January 22, 2020.

Dated: December 27, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–28399 Filed 1–2–20; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 824d, 824e (2019).
[2] See 18 CFR 385.207(a)(2).
[3] 16 U.S.C. 824d, 824e (2019).

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9048–7]

Environmental Impact Statements; Notice of Availability

Weekly receipt of Environmental Impact Statements filed December 20, 2019, 10 a.m. EST through December 30, 2019, 10 a.m. EST, pursuant to 40 CFR 1506.9.

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa/.*

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20200000, Final, HCIDLA, CA, Rose Hill Courts Redevelopment Project, *Review Period Ends:* 01/23/2020, *Contact:* Shelly Lo 213–808–8879

Under Section 1506.10(d) of the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, the U.S. Environmental Protection Agency has Granted a 10-Day Waiver for the above EIS.

EIS No. 20200001, Final Supplement, NRCS, MO, Little Otter Creek Watershed Plan Final Supplemental Environmental Impact Statement, *Review Period Ends:* 01/13/2020, *Contact:* Chris Hamilton 573–876–0912

Under Section 1506.10(d) of the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, the U.S. Environmental Protection Agency has Granted a 20-Day Waiver for the above EIS.

EIS No. 20200002, Draft Supplement, USACE, NE, Nebraska Highway 12 Niobrara East and West, *Comment Period Ends:* 02/18/2020, *Contact:* Rebecca Latka 402–995–2681

EIS No. 20200003, Draft, TVA, TN, Gallatin Fossil Plant Surface Impoundment Closure and Restoration Project, *Comment Period Ends:* 02/18/2020, *Contact:* Ashley Farless 423–751–2361

Dated: December 30, 2019.

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2019–28393 Filed 1–2–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0014; FRL–10002–91]

Cancellation Order for Certain Pesticide Registrations and Amendments To Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations and amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 and Table 2 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows an October 25, 2019 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II to voluntarily cancel and amend to terminate uses of these product registrations. In the October 25, 2019 notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their requests. Products, 45728–29, 57787–14, OR–160011 & WA–020030, have been removed from this cancellation order because they are already listed in a maintenance fee cancellation notice. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations and amendments are effective January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0014, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces the cancellations and amendments to terminate uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 and Table 2 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
228–709	228	Super Boll	Ethephon.
464–782	464	Aqucar PS 20 Water Treatment Microbiocide	Tetrakis(hydroxymethyl)phosphonium sulphate (THPS).
464–8126	464	Aqucar PS 75 Water Treatment Microbiocide	Tetrakis(hydroxymethyl)phosphonium sulphate (THPS).
464–8127	464	Aqucar THPS 75MFG Water Treatment Microbiocide	Tetrakis(hydroxymethyl)phosphonium sulphate (THPS).
464–8129	464	Aqucar PS 75C MUP Water Treatment Microbiocide	Tetrakis(hydroxymethyl)phosphonium sulphate (THPS).
1258–1279	1258	Pool Breeze Pool Care System Shock 35	Lithium hypochlorite.
1381–227	1381	Imidacloprid 75% WSP Turf Insecticide	Imidacloprid.
2792–28	2792	Deccosol 122 Concentrate	o-Phenylphenol, sodium salt.
2792–54	2792	Deccosan 315	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12 & Alkyl* dimethyl ethyl-benzyl ammonium chloride *(68%C12, 32%C14).
7313–25	7313	Clear Wood Preservative	Folpet & Carbamic acid, butyl-, 3-iodo-2-propynyl ester.
7364–94	7364	Poolcare Lithium	Lithium hypochlorite.
8660–150	8660	Vertagreen Fertilizer With 1% Surflan	Oryzalin.
34688–80	34688	Aquatreat DNM–9	Nabam & Sodium dimethyldithiocarbamate.
34688–81	34688	Aquatreat DNM–360	Nabam & Sodium dimethyldithiocarbamate.
62719–605	62719	Clincher EZ	Cyhalofop-butyl.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Active ingredients
62719–613	62719	Clincher GR	Cyhalofop-butyl.
62719–647	62719	Clincher Granule	Cyhalofop-butyl.
62719–651	62719	Clincher 5G	Cyhalofop-butyl.
69681–7	69681	Clor Mor Lithium Shock	Lithium hypochlorite.
69681–35	69681	Clor Mor Silver Algaecide	Nanosilver 002.
70127–2	70127	Novozymes Biofungicide Green Releaf 710–140	Bacillus licheniformis strain SB3086 & Indole-3-butyric acid.
70127–3	70127	Novozymes Biofungicide 145F	Indole-3-butyric acid & Bacillus licheniformis strain SB3086.
85678–54	85678	Flucarbazone Technical	Flucarbazone-sodium.
87663–2	87663	Emery Agro 7010 Ready-To-Use (RTU)	Pelargonic acid, ammonium salt.
87663–4	87663	Emery Agro 7030 Concentrate	Pelargonic acid, ammonium salt.
87663–5	87663	Emery Agro 7040 Ready-To-Use (RTU)	Pelargonic acid, ammonium salt.
87663–6	87663	Emerion 7001 Concentrate	Pelargonic acid, ammonium salt.
87663–7	87663	Emerion 7031 Concentrate	Pelargonic acid, ammonium salt.
87703–1	87703	8 in 1 Bird Protector	Paradichlorobenzene.
88356–1	88356	Niccanon ZP–700	Zinc pyrithione.
CA–070010	71711	Talus 40 SC Insect Growth Regulator	Buprofezin.
CA–080013	62719	Lorsban Advanced	Chlorpyrifos.
CA–140001	70506	Manzate Pro-Stick Fungicide	Mancozeb.
CO–030009	400	Terrazole 4EC	Etridiazole.
CO–070004	66222	Rimon 0.83 EC	Novaluron.
KS–170003	10163	Treflan TR–10	Trifluralin.
OR–060021	66222	Rimon 0.83 EC	Novaluron.
OR–080024	279	Fyfanon ULV AG	Malathion (NO INERT USE).
SD–150001	62719	Enlist Duo	2,4–D, Choline salt & Glycine, N-(phosphonomethyl)-, compd. with N-methylmethanamine (1:1).
TX–060016	56228	Compound DRC–1339 Concentrate—Livestock, Nest & Fodder Depredations.	Starlicide.
UT–170006	10163	Treflan TR–10	Trifluralin.

TABLE 2—PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
1475–21	1475	Paradichlorobenzene	Paradichlorobenzene	Bird cage use.
42750–148	42750	Propazine 4L	Propazine	Greenhouse use.
42750–149	42750	Propazine Technical	Propazine	Greenhouse use.
46923–11	46923	Copper Sulfate Pentahydrate Technical.	Copper sulfate pentahydrate	Wood preservative use.
80990–3	80990	Agri-Seed 50 WP	Streptomycin sulfate	Residential use.
87108–1	87108	PDCB Molten Insecticide	Paradichlorobenzene	Bird use.
87108–2	87108	PDCB Flakes	Paradichlorobenzene	Bird use.

Table 3 of this unit includes the names and addresses of record for all the registrants of the products listed in Tables 1 and 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 and Table 2 of this unit.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS

EPA company No.	Company name and address
228	NuFarm Americas, Inc., 4020 Aerial Center Pkwy., Ste. 101, Morrisville, NC 27560.
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
400	Macdermid Agricultural Solutions, Inc., C/O Arysta Lifescience North America, LLC, Agent Name: UPL NA Inc., 630 Freedom Business Center, #402, King of Prussia, PA 19406.
464	DDP Specialty Electronic Materials US, Inc., 1501 Larkin Center Drive, Midland, MI 48674.
1258	Arch Chemicals, Inc., 1200 Bluegrass Lakes Parkway, Alpharetta, GA 30004.
1381	Winfield Solutions, LLC, P.O. Box 64589, St. Paul, MN 55164–0589.
1475	Willert Home Products, Inc., 4044 Park Avenue, St. Louis, MO 63110.
2792	Decco US Post-Harvest, Inc., 1713 South California Avenue, Monrovia, CA 91016–0120.
7313	PPG Architectural Finishes, Inc., Agent Name: PPG Architectural Finishes, Inc., 440 College Park, Monroeville, PA 15146.
7364	Innovative Water Care, LLC, D/B/A GLB Pool & Spa, 1400 Bluegrass Lakes Parkway, Alpharetta, GA 30004.
8660	United Industries Corp., D/B/A Sylorr Plant Corp., P.O. Box 142642, St. Louis, MO 63114–0642.
10163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
34688	Akzo Nobel Surface Chemistry, LLC, 525 W Van Buren St., Chicago, IL 60607–3823.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS—Continued

EPA company No.	Company name and address
42750	Albaugh, LLC, P.O. Box 2127, Valdosta, GA 31604–2127.
46923	Old Bridge Chemicals, Inc., Agent Name: Landis International, Inc., 3185 Madison Highway, P.O. Box 5126, Valdosta, GA 31603–5126.
56228	U.S. Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 149, Riverdale, MD 20737.
62719	Dow Agrosciences, LLC, 9330 Zionsville Rd., 308/2E, Indianapolis, IN 46268–1054.
66222	Makhteshim Agan of North America, Inc., D/B/A Adama, 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
69681	Allchem Performance Products, Inc., 6010 NW First Place, Gainesville, FL 32607.
70127	Novozymes Biologicals, Inc., Agent Name: Exponent, Inc., 1150 Conn. Ave. NW, Suite 1100, Washington, DC 20036.
70506	UPL NA, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406.
71711	Nichino America, Inc., 4550 Linden Hill Road, Suite 501, Wilmington, DE 19808.
80990	Agrosource, Inc., P.O. Box 3091, Tequesta, FL 33469.
85678	Redeagle International, LLC, Agent Name: Wagner Regulatory Associates, Inc., P.O. Box 640, Hockessin, DE 19707.
87108	Jiangsu Yangnong Chemical Group Co., Ltd., Agent Name: Landis International, Inc., P.O. Box 5126, Valdosta, GA 31603–5126.
87663	Emery Oleochemicals, LLC, 4900 Este Avenue, Cincinnati, OH 45232.
87703	Spectrum Brands Pet Group, Inc., D/B/A United Pet Group, Inc., 3001 Commerce Street, Blacksburg, VA 24060.
88356	Nicca USA, Inc., 1044 S. Nelson Dr., Fountain Inn, SC 29644.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the October 25, 2019 **Federal Register** (84 FR 57418) (FRL–10000–07) notice announcing the Agency's receipt of the requests for voluntary cancellations and amendments to terminate uses of products listed in Tables 1 and 2 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and amendments to terminate uses of the registrations identified in Tables 1 and 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Tables 1 and 2 of Unit II are canceled and amended to terminate the affected uses. The effective date of the cancellations and amendments listed in Table 1 and Table 2 that are subject of this notice is January 3, 2020. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI will be a violation of FIFRA.

V. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the October 25, 2019 **Federal Register**. The comment period closed on November 25, 2019.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

A. For products 464–782; 464–8126; 464–8127 & 464–8129

The registrant of products 464–782; 464–8126; 464–8127 & 464–8129, listed in Table 1, has requested 18-months to sell existing stocks. The registrant will be permitted to sell and distribute existing stocks of these products for 18-months after the effective date of the cancellation, which will be the date of publication of the cancellation order in the **Federal Register**.

For all other voluntary cancellations, identified in Table 1 of Unit II, the registrants may continue to sell and distribute existing stocks of the products listed in Table 1 until January 4, 2021, which is one year after publication of this cancellation order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing the products listed in Table 1 of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Now that EPA has approved product labels reflecting the requested amendments to terminate uses, registrants are permitted to sell or distribute products listed in Table 2 of Unit II under the previously approved labeling until July 6, 2021, a period of 18 months after publication of the cancellation order in this **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 12, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–28335 Filed 1–2–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0236; FRL–10003–71]

N-Methylpyrrolidone (NMP); Draft Toxic Substances Control Act (TSCA) Risk Evaluation; Notice of Availability; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of November 7, 2019, announcing the availability of and soliciting public comment on the draft Toxic Substances Control Act (TSCA) risk evaluation of N-Methylpyrrolidone (NMP). This document extends the comment period for 2 weeks, from January 6, 2020 to January 21, 2020.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0236, must be received on or before January 21, 2020.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of November 7, 2019 (84 FR 60087) (FRL–10001–87).

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Dr. Stan Barone, Office of Pollution Prevention and Toxics (7403M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1169; email address: *barone.stan@epa.gov.*

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

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** document of November 7, 2019 (84 FR 60087) (FRL–10001–87). In that document, EPA announced the availability of and solicited public comment on the draft Toxic Substances Control Act (TSCA) risk evaluation of N-Methylpyrrolidone (NMP). The purpose of the risk evaluation process under TSCA is to determine, upon issuance of a final risk evaluation, whether a chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation. EPA is hereby extending the comment period in response to several requests for additional time.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of November 7, 2019. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 18, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2019–28334 Filed 1–2–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0014; FRL–10002–95]

Cancellation Order for Certain Pesticide Registrations and Amendments To Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations and amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 and Table 2 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a June 5, 2019 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II to voluntarily cancel and amend to terminate uses of these product registrations. In the June 5, 2019 notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 180-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received three comments on the notice, but they did not merit its further review of the requests. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations and amendments are effective January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0014, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces the cancellations and amendments to terminate uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 and Table 2 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
5481–79	5481	Alco Sta-Gon Insecticidal Dust	Boric acid.
5481–132	5481	Cryolite 93	Cryolite.
39967–82	39967	Preventol PTAP	4-tert-Amylphenol.
73049–9	73049	DeVine Mycoherbicide	Live Chlamydospores of Phytophthora palmivora MWV.
CA–070018	60256	Lorsban 30 Flowable	Chlorpyrifos.
WY–070004	400	Acramite-4SC	Bifenazate.

TABLE 2—PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
81964–4	81964	Tide Triadimefon Technical	Triadimefon	Pineapple use.

Table 3 of this unit includes the names and addresses of record for all the registrants of the products listed in Tables 1 and 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 and Table 2 of this unit.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS

EPA company No.	Company name and address
400	Macdermid Agricultural Solutions, Inc., C/O Arysta LifeScience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
5481	Amvac Chemical Corporation, 4695 Macarthur Court, Suite 1200, Newport Beach, CA 92660–1706.
39967	Lanxess Corporation, 111 RIDC Park West Drive, Pittsburgh, PA 15275–1112.
60256	California Seed Association, 1521 "I" Street, Sacramento, CA 95814.
73049	Valent U.S.A., LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596–8025.
81964	Chemstarr, LLC, Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th Street Ct. NW, Gig Harbor, WA 98332.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received three public comments; two of them are anonymous, in response to the June 5, 2019 **Federal Register** (84 FR 26104) (FRL–9994–17) notice announcing the Agency's receipt of the requests for voluntary cancellations and amendments to terminate uses of products listed in Tables 1 and 2 of Unit II. The Agency does not believe that the comments submitted during the comment period merit further review or a denial of the requests for voluntary cancellation and/or use termination.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and amendments to terminate uses of the registrations identified in Tables 1 and 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Tables 1 and 2 of Unit II are canceled and amended to terminate the affected uses. The effective date of the cancellations and amendments listed in Table 1 and Table 2 that are subject of this notice is January 3, 2020. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI will be a violation of FIFRA.

V. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of June 5, 2019.

The comment period closed on December 2, 2019.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

For all voluntary cancellations, identified in Table 1 of Unit II, the registrants may continue to sell and distribute existing stocks of the products listed in Table 1 until January 4, 2021, which is one year after publication of this cancellation order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing the products listed in Table 1 of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Now that EPA has approved product labels reflecting the requested amendment to terminate uses, registrants are permitted to sell or distribute products listed in Table 2 of Unit II under the previously approved labeling until July 6, 2021, a period of 18 months after publication of the cancellation order in this **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated use identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 11, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–28336 Filed 1–2–20; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board

AGENCY: Farm Credit Administration.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on January 9, 2020, from 9:00 a.m. until such time as the Board concludes its business.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*
- ☐ December 12, 2019

B. *New Business*
- ☐ Interest Rate Risk Management Bookletter
- ☐ Amortization Limits Proposed Rule

C. *Report*
- ☐ Auditor's Report on FCA 2019/2018 Financial Statements

Closed Session

- ☐ Meeting with Auditors [1]
- ☐ Report on 2019 FISMA Audit [2]

Dated: December 31, 2019.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2019–28503 Filed 12–31–19; 4:15 pm]

BILLING CODE 6705–01–P

[1] Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(2).

[2] Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(2).

FEDERAL COMMUNICATIONS COMMISSION

[DA 19–1305]

Media Bureau Announces Procedures for Processing FCC Form 314 and 315 Assignment and Transfer of Control Applications for Commercial Stations in Light of Third Circuit Mandate

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Media Bureau announces revised processing procedures for applications to assign or transfer control of commercial broadcast stations filed on FCC Forms 314 and 315, following the remand of certain Commission rules by the United States Court of Appeals for the Third Circuit, in its decision in *Prometheus Radio Project* v. *FCC,* 939 F.3d 567 (3d Cir. 2019), *petition for rehearing* en banc *denied* (3d Cir. Nov. 20, 2019) (*Prometheus*).

DATES: Applicable January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Michael Wagner, *Michael.Wagner@fcc.gov,* (202) 418–2775, or Lisa Scanlan, *Lisa.Scanlan@fcc.gov,* (202) 418–2704, of the Media Bureau, Audio Division; or David Brown, *David.Brown@fcc.gov,* (202) 418–1645 of the Media Bureau, Video Division. Press inquiries should be directed to Janice Wise, *Janice.Wise@fcc.gov,* at (202) 418–8165.

SUPPLEMENTARY INFORMATION: By this Public Notice, the FCC's Media Bureau announces procedures for assignment and transfer applicants in light of the United States Court of Appeals for the Third Circuit's decision in *Prometheus.* In its decision, the court vacated and remanded the Commission's *2010/2014 Quadrennial Review Order on Reconsideration,*[1] which had modified the Commission's media ownership rules by: (1) Eliminating the newspaper/broadcast cross-ownership and radio/television cross-ownership rules; (2)

[1] *2014 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.,* Order on Reconsideration and Notice of Proposed Rulemaking, 32 FCC Rcd 9802 (2017) (*2010/2014 Quadrennial Review Order on Reconsideration*). The Court also vacated in its entirety and remanded the Commission's Order adopting a radio incubator program, *Report and Order In the Matter of Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services,* 33 FCC Rcd 7911 (2018), and the definition of ''eligible entity'' from the *2014 Quadrennial Review Order—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.,* Second Report and Order, 31 FCC Rcd 9864 (2016) (*2010/2014 Quadrennial Review Order*).

revising the local television ownership rule by eliminating the ''eight voices'' test and permitting applicants to seek the combination of two top-four ranked stations in a given market on a case-by-case basis; and (3) deeming joint sales agreements between television stations to be non-attributable. By vacating the *Order on Reconsideration,* the *Prometheus* decision abrogated these rule changes and reinstated the prior media ownership rules adopted in the *2010/2014 Quadrennial Review Order. See 2010/2014 Quadrennial Review Order.* The court also vacated the Commission's definition of an ''eligible entity,'' which had been adopted in the *2010/2014 Quadrennial Review Order.*[2]

On November 29, 2019, the Third Circuit issued its mandate in *Prometheus.* Letter from Patricia S. Dodszuweit, Clerk, *Prometheus Radio Project* v. *FCC,* Nos. 17–1107 *et al.* (3d Cir. Nov. 29, 2019). Accordingly, by order released December 20, 2019, the Commission's rules have been amended to reflect the changes required by the court's foregoing actions. *2014 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.,* Order, DA 19–1305 (MB Dec. 20, 2019) (2019 Order). The purpose of this Public Notice is to clarify the application of these new rules as they bear on pending and future applications for assignment and transfer of control.[3]

New Applications: Effective immediately, every applicant filing an assignment application on FCC Form 314 (Application for Consent to Assignment of Broadcast Station Construction Permit or License—*https://transition.fcc.gov/Forms/Form314/314.pdf*) or a transfer of control application on FCC Form 315 (Application for Consent to Transfer Control of Corporation Holding Broadcast Station Construction Permit or License—*https://transition.fcc.gov/Forms/Form315/315.pdf*) must take account of the media ownership rules now in effect by virtue of the issuance of the mandate in *Prometheus.* The Media Bureau is in the process of seeking approval from the Office of Management and Budget to restore the previous ownership language to the FCC Form 314 and 315. Pending that approval and effective immediately, all applicants must use the existing certification in each form that requires the applicant to certify that it ''complies with the Commission's multiple ownership rules.'' *See* FCC Form 314, section III, Item 6.b; FCC Form 315, section III, Item 8.b. We clarify that when an applicant certifies compliance with the ''multiple ownership rules'' it is certifying compliance with all of the rules set forth in 47 CFR 73.3555, including the ''eight voices'' test and the prohibition on top-four combinations in the local television rule; radio/television cross-ownership rules; newspaper/broadcast cross-ownership rules; and attribution of joint sales agreements. 47 CFR 73.3555(b) through (d), notes. *See* 2019 Order.

Pending Applications: To the extent that licensees have a pending assignment or transfer application filed on Form 314 or 315, they must update their application as described herein. Specifically, within 30 days of the date of this Public Notice, each assignee or transferee must file an amendment to its pending application as required by section 1.65 of the Commission's rules, 47 CFR 1.65. This amendment must include, as Exhibit 1, a statement certifying whether each assignee or transferee complies with the Commission's multiple ownership rules now in effect as a result of the *Prometheus* decision. To the extent the assignee or transferee cannot certify compliance, it should file an explanation with all necessary showings. No action will be taken on pending applications prior to submission of this amendment. Applicants seeking prompt action on their application should not wait the full 30 days to file the required amendment. Applications will be processed once amendments are received.

Thomas Horan,

Chief of Staff, Media Bureau.

[FR Doc. 2019–28384 Filed 1–2–20; 8:45 am]

BILLING CODE 6712–01–P

[2] *Prometheus,* 939 F.3d at 587, 589, referencing *2010/2014 Quadrennial Review Order.* That definition is reflected in Section III, Item 6.d. of FCC Form 314 and Section III, Item 8.d of FCC Form 315. Pending further Commission action on this topic, the eligible entity definition and attendant provisions of FCC Forms 314 and 315 are unavailable.

[3] Nothing in this Public Notice shall be construed to affect the right of the Commission or any other party to the *Prometheus* litigation to seek further review of the Third Circuit's decision in the U.S. Supreme Court, or to limit the Commission's discretion in the event that the Supreme Court were to take further action in that litigation.

FEDERAL COMMUNICATIONS COMMISSION

[DA 19–1304; FRS 16387]

Media Bureau Announces Procedures for Processing License Renewal Applications for Commercial Radio Stations in Light of Third Circuit Mandate

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Media Bureau announces revised processing procedures for applications to renew commercial radio station licenses, following the remand of certain Commission rules by the United States Court of Appeals for the Third Circuit, in its decision in *Prometheus Radio Project* v. *FCC,* 939 F.3d 567 (3d Cir. 2019), *petition for rehearing* en banc *denied* (3d Cir. Nov. 20, 2019) (*Prometheus*).

DATES: Applicable January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Michael Wagner, *Michael.Wagner@fcc.gov,* (202) 418–2775, or Tom Hutton, *Tom.Hutton@fcc.gov,* (202) 418–7266, of the Media Bureau, Audio Division. Press inquiries should be directed to Janice Wise, *Janice.Wise@fcc.gov,* at (202) 418–8165. Filers who have questions regarding basic filing requirements or who need assistance logging into LMS or amending Schedule 303–S should contact the Commission at (877) 480–3201 (Option 2), Monday–Friday, 8:00 a.m.–6:00 p.m. ET, or submit a request online at *https://fccprod.service-now.com/auls?id=esupport.*

SUPPLEMENTARY INFORMATION: By this Public Notice, the FCC's Media Bureau announces revised procedures for commercial radio station renewal applications in light of the United States Court of Appeals for the Third Circuit's decision in *Prometheus.* In its decision, the court vacated and remanded the Commission's *2010/2014 Quadrennial Review Order on Reconsideration,*[1] thereby reinstating the Commission's Newspaper/Broadcast Cross-Ownership Rule and the Radio/Television Cross-Ownership Rule. On November 29, 2019, the Third Circuit issued its mandate in *Prometheus.* Letter from Patricia S. Dodszuweit, Clerk,

[1] *2014 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.,* Order on Reconsideration and Notice of Proposed Rulemaking, 32 FCC Rcd 9802 (2017) (*2010/2014 Quadrennial Review Order on Reconsideration*).

Prometheus Radio Project v. *FCC,* Nos. 17–1107 *et al.* (3d Cir. Nov. 29, 2019). Accordingly, by order released December 20, 2019, the Commission's rules have been amended to reflect the changes required by the court's foregoing actions. *2014 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.,* Order, DA 19–1304 (MB Dec. 20, 2019) (2019 Order). The purpose of this Public Notice is to clarify the application of these new rules as they bear on pending and future renewal applications.[2]

New Renewal Applications: Effective immediately, every licensee seeking renewal of a commercial station license must report any violation of the Newspaper/Broadcast or Radio/Television Cross-Ownership rules contained in the revised section 73.3555 of the Rules. The Media Bureau is in the process of seeking approval from the Office of Management and Budget to add a new question on this topic to the renewal application, FCC Form 2100, Schedule 303–S. Pending that approval and effective immediately, all licensees must use the ''FCC Violations during the Preceding License Term'' question in the ''Renewal Certification'' section of the renewal application to report any violations of section 73.3555.[3] If the licensee (or any party with an attributable interest in the licensee) is in violation of the Newspaper/Broadcast or Radio/Television Cross-Ownership rules, it must answer that question ''No'' and include an explanatory exhibit. Licensees should answer ''No'' and provide an explanatory exhibit even if the acquisition of an attributable interest in a newspaper/broadcast combination or radio/television combination has previously been approved by the Commission or its staff. If the licensee is not in violation of the Newspaper/Broadcast or Radio/Television Cross-Ownership rules, and there have been no other violations of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term, it must answer that question ''Yes.'' The Media Bureau will issue a future Public Notice when a permanent question on this subject has been added to the renewal application.

Pending Renewal Applications: Each licensee that has a pending application for renewal of a commercial station license must update its application as described herein. Specifically, within 30 days of the date of this Public Notice, the licensee must file an amendment to its pending application[4] as required by section 1.65 of the Commission's rules, 47 CFR 1.65. This amendment must include an attachment certifying whether the station licensee (and each party with an attributable interest in the licensee) complies with the Commission's cross ownership rules now in effect in revised section 73.3555. The attachment should state:

> The station licensee (and each party with an attributable interest in the licensee) hereby certifies it is in compliance with the Newspaper/Broadcast and Radio/Television Cross-Ownership rules in revised 47 CFR 73.3555.

To the extent the licensee cannot certify compliance, it should file an explanation with all necessary showings. Licensees should address these rules in the amendment even if the acquisition of an attributable interest in a newspaper/broadcast combination or radio/television combination has previously been approved by the Commission or its staff. No action will be taken on pending renewal applications prior to submission of this amendment. Pending renewal applications will be processed once amendments are received.

Thomas Horan,

Chief of Staff, Media Bureau.

[FR Doc. 2019–28385 Filed 1–2–20; 8:45 am]

BILLING CODE 6712–01–P

[2] Nothing in this Public Notice shall be construed to affect the right of the Commission or any other party to the *Prometheus* litigation to seek further review of the Third Circuit's decision in the U.S. Supreme Court, or to limit the Commission's discretion in the event that the Supreme Court were to take further action in that litigation.

[3] 47 CFR 73.3555. That question states, ''Licensee certifies that, with respect to the station(s) for which renewal is requested, there have been no violations by the licensee of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term. If ''No'', the licensee must submit an explanatory exhibit providing complete descriptions of all violations.''

[4] Licensees must use the Media Bureau's LMS database to file this amendment. After logging into LMS, the licensee should click on the ''Applications'' tab at the top of the screen. The Applications tab enables licensees to amend pending renewal applications. Next, the licensee must click on the ''Submitted'' tab to see any pending renewal applications. Then, click on the application File Number to get to the screen to create the amendment. This is the ''Application Summary'' page. From this page, click on the ''File an Application'' button and select ''Amend Application.'' To add an attachment from any Application section, click on the ''Attachments'' link from the top/middle of the page. For Attachment Type, Select ''Amendment.'' Then, use the ''Browse. . .'' button to locate the appropriate attachment from your computer. Then, select the relevant document and click on ''Open.'' Next, add a description of the document and click on ''Upload File.'' Once this is complete, click on the ''Back'' button at the bottom of the page.

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0347, OMB 3060–0695, OMB 3060–0881 OMB 3060–1008; FRS 16365]

Information Collections 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 comments should be submitted on or before March 3, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce

paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060–0347.

Title: Section 97.311, Spread Spectrum (SS) Emission Types.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households.

Number of Respondents and Responses: 50 respondents; 50 responses.

Estimated Time per Response: .017 hours (1 minute).

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain and retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 154, 303, 151–155 and 301–609.

Total Annual Burden: 1 hour.

Annual Cost Burden: None.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The recordkeeping requirement in Section 97.311 is necessary to document all spread spectrum (ss) transmissions by amateur radio operators. This requirement is necessary so that quick resolution of any harmful interference problems can be achieved and to ensure that the station is operating in accordance with the Communications Act of 1934, as amended. The information is used by FCC staff during inspections and investigations to ensure compliance with applicable rules, statutes, and treaties. In the absence of this recordkeeping requirement, field inspections and investigations related to the solution of cases of harmful interference would be severely hampered and needlessly prolonged due to the inability to quickly obtain vital information used to demodulate spread spectrum transmissions.

OMB Control No.: 3060–0695.

Title: Section 87.219, Automatic Operations.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 55 respondents and 55 responses.

Estimated Time per Response: 0.7 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement, and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 154, 303 and 307.

Total Annual Burden: 39 hours.

Annual Cost Burden: $8,250.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: If airports have control towers of Federal Aviation Administration (FAA) flight service stations and more than one licensee, and wants to have an automated aeronautical advisory station (Unicom), this rule requires that they must write an agreement and keep a copy of the agreement with each licensee's station authorization. This information will be used by compliance personnel for enforcement purposes and by licensees to clarify responsibility in operating Unicom.

OMB Control No.: 3060–0881.

Title: Section 95.1961, Interference.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 40 respondents; 40 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement, and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i) and 157, as amended.

Total Annual Burden: 40 hours.

Annual Cost Burden: $10,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On May 19, 2017, the Commission reformed its Part 95 rules. *See* Review of the Commission's Part 95 Personal Radio Service Rules, Report and Order, WT Docket 10–119, 32 FCC Rcd 4292 (2017). In that proceeding, the Commission renumbered certain Part 95 rules subject to this information collection without making substantive rule changes. For example, former rule § 95.861 is currently § 95.1961. With this submission to the Office of Management and Budget (OMB), we renumbered the rule sections accordingly.

Section 95.1961(c) requires that licensees in the 218–219 MHz service must provide a copy of its plan to every TV Channel 13 station whose Grade B predicted contour overlaps the licensed service area as required by § 95.1915(a) of the Commission's rules. This plan must include an analysis of the co- and adjacent channel interference potential of proposed systems in the 218–219 MHz service, identify methods being used to minimize interference, and show how the proposed systems will meet the service requirements set forth in § 95.1931 of the Commission's rules. This plan must be sent to the TV Channel 13 licensee(s) within 10 days from the date the 218–219 MHz service licensee submits the plan to the Commission. Updates to this plan must be sent to the TV Channel 13 licensee(s) within 10 days from the date that such updates are filed with the Commission pursuant to § 95.1915.

Section 95.1961(e) requires that each 218–219 MHz service licensee investigate and eliminate harmful interference to television broadcasting and reception, from its component cell transmitter stations (CTSs) and response transmitter units (RTUs) within 30 days of the time it is notified in writing, by either an affected television station, an affected viewer, or the Commission, of an interference complaint.

OMB Control No.: 3060–1008.

Title: Section 27.50, Power and Antenna Height Limits; Section 27.602, Guard Band Manager Agreements.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, and State, Local or Tribal Government.

Number of Respondents and Responses: 166 respondents and 247 responses.

Estimated Time per Response: 1 hour up to 6 hours.

Frequency of Response: Recordkeeping requirement, On occasion reporting requirement and Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j), as amended.

Total Annual Burden: 782 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The information gathered in this collection will be used to support the development of new services in the Lower 700 MHz Band. Further, Guard Band Managers are required to enter into written agreements with other licensees who plan on using their licensed spectrum by others, subject to certain conditions outlined in the rules. They must retain these records for at least two years after the date such agreement expire. Such records need to be kept current and be made available upon request for inspection by the Commission or its representatives.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019–28409 Filed 1–2–20; 8:45 am]

BILLING CODE 6712–01–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 February 3, 2020.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Stifel Financial Corporation and Stifel Bancorp, Inc., both of St. Louis, Missouri;* to retain Stifel Trust Company Delaware, N.A., Wilmington, Delaware, upon the conversion of Stifel Trust Company Delaware, N.A., from a non-depository trust company to a depository trust company.

Board of Governors of the Federal Reserve System, December 30, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–28410 Filed 1–2–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–4824]

Office of Minority Health and Health Equity Strategic Priorities; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is opening a public docket to solicit input and comments from interested stakeholders, including racial and ethnic minority, underrepresented, and underserved populations in establishing strategic priorities for the Office of Minority Health and Health Equity (OMHHE). This will help the Agency ensure that important health concerns are carefully considered in establishing priorities.

DATES: Submit either electronic or written comments by February 28, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 28, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of February 28, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2019–N–4824 for ''Office of Minority Health and Health Equity Strategic Priorities; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for

those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Christine Merenda, Food and Drug Administration, Office of Minority Health and Health Equity, 10903 New Hampshire Ave., Bldg. 32, Rm. 2382, Silver Spring, MD 20993, 301–796–8453, Fax: 301–847–8601, email: *Christine.merenda@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA's OMHHE serves to promote and protect the health of diverse populations through research and communication of science that addresses health disparities and health equity. Established in 2010, OMHHE provides leadership and policy direction for FDA regarding issues relating to the health of racial and ethnic minority, underrepresented, and underserved populations. OMHHE's stakeholders reflect the diversity of the U.S. population, including individuals of low socioeconomic status and historically underrepresented populations.

Currently OMHHE has program areas that focus on outreach and communication, as well as research and collaboration. The outreach and communication program strives to improve FDA communication with racial and ethnic minority populations and leads the Agency's Language Access program that provides consumers (including those with limited English proficiency) information that is easy to read, culturally competent, and available in multiple languages and formats. The research and collaboration program supports research projects that study health disparities that disproportionately affect racial and ethnic minority, underrepresented, and underserved populations, as well as projects that analyze data that can answer regulatory science questions. To aid data analysis, OMHHE issued a final guidance in October 2016 entitled ''Collection of Race and Ethnicity Data in Clinical Trials'' (available at *https://www.fda.gov/media/75453/download*) to ensure that subpopulation data are collected consistently by industry.

OMHHE also works with academic institutions as part of the Centers of Excellence in Regulatory Science and Innovation, which are collaborations between FDA and academic institutions to advance regulatory science through innovative research, education, and scientific exchanges. In addition, OMHHE supports and collaborates with academic institutions and other stakeholders through the Broad Agency Announcement (available at *https://www.fda.gov/science-research/advancing-regulatory-science/regulatory-science-extramural-research-and-development-projects*) to spur innovation in the field of regulatory science.

OMHHE recognizes that more needs to be done to reach the goal of health equity and eliminating health disparities. Multiple complex factors can affect the health of racial and ethnic minority, underrepresented, and underserved populations, some of which are outside the purview of FDA, so it is important for OMHHE to develop a list of priorities to focus our efforts where FDA engagement can have the most impact.

FDA believes it is crucial to ask for input from the public, through **Federal Register** notices, public meetings, and workshops. OMHHE would like to have input from interested stakeholders including, racial and ethnic minority, underrepresented, and underserved populations in establishing strategic priorities for the office. This will help ensure that important health concerns are carefully considered in establishing priorities. Therefore, FDA is issuing this **Federal Register** notice to open a docket (FDA–2019–N–4824) for the public to submit comments on priorities for FDA's OMHHE. FDA will take the suggestions and information submitted to the docket into consideration when developing the priorities for OMHHE.

II. Request for Comments

FDA engagement can have a direct impact on advancing health equity in a number of areas, such as:

• Efforts that generate clinical evidence to improve generalizability of clinical trial findings and bridge the knowledge gap about the medical products' performance in racial and ethnic minority populations.

• Direct outreach to racial and ethnic minority, underrepresented, and underserved populations to promote access to relevant information on medical products to improve safety and efficacy.

• Coordination with other Federal Agencies and external stakeholders to support research on medical products that can address health disparities.

• Performing direct outreach to racial and ethnic minority, underrepresented, and underserved populations (*e.g.,* raising awareness on inclusion of racial and ethnic minority populations in clinical trials).

• Leading the identification of regulatory decisions that can benefit from participation of racial and ethnic minority, underrepresented, and underserved populations.

• Generating research topics/interests and areas of focus that predominantly affect racial and ethnic minority populations.

• Identification of opportunities of collaboration to generate efforts to address research gaps that predominantly affect racial and ethnic minority populations.

We encourage interested stakeholders to submit comments on the areas and types of engagement FDA's OMHHE should prioritize in the coming year(s), and potential mechanisms that can be used to implement them (*e.g.,* through collaborations and partnerships).

Dated: December 30, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–28417 Filed 1–2–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1423]

Agency Information Collection Activities; Proposed Collection; Comment Request; Imports and Electronic Import Entries

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed renewal of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with FDA import activities.

DATES: Submit either electronic or written comments on the collection of information by March 3, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before March 3, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 3, 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–2013–N–1423 for ''Submission of Food and Drug Administration Import Data in the Automated Commercial Environment.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: 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: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's

estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Imports and Electronic Import Entries

OMB Control Number 0910–0046—Revision

This information collection supports Agency regulations in 21 CFR part 1, which govern FDA import activities. Specifically, the regulations prescribe the required data elements that respondents must submit when importing, or offering for import, an FDA-regulated article into the United States. The data elements allow FDA to continue to meet its responsibilities pertaining to current submission requirements established by the U.S. Customs and Border Protection (CBP) related to the submission of entry information in using its Automated Commercial Environment (ACE) system, or any CBP-authorized electronic data interchange (EDI) system. Respondents (ACE filers) submit important and useful information about FDA-regulated products being imported or offered for import into the United States so that we may effectively and efficiently review products and determine their admissibility. In addition, and as set forth in the regulations, certain product types are subject to additional data elements (for example, 21 CFR 1.75 prescribes additional data elements for radiation-emitting products), as well as those data elements applicable to all products.

We are revising the information collection to provide for a weekly entry filing program (WEF). More detailed information on Foreign Trade Zones (FTZ)/WEF, is available at *https://www.fda.gov/industry/import-basics/foreign-trade-zonesweekly-entry-filing.* The WEF program, which is available for some FDA-regulated products, allows entry filers to file a single entry estimating the amount of merchandise anticipated to be removed from a FTZ and offered for U.S. consumption during a 7-day period. To participate, we recommend respondents who wish to file a weekly entry of FDA-regulated products with CBP, first request a preliminary assessment from FDA. As part of this assessment, we recommend submission of the following information:

- FDA Import Division(s) [1] with geographic oversight over the FTZ location;
- Identification of whether products are manufactured or stored in the FTZ;
- FTZ site/subzone number and address;
- Importer of Record (IOR) Facility Establishment Identifier (FEI), if known;
- Manufacturer FEI, if known; and
- Port of entry.

The division information is necessary so that we can appropriately route the submission within the Agency. Information on whether the product is stored or manufactured in the zone is necessary for FDA to determine the applicable admissibility requirements. The FTZ and port information is necessary to ensure that basic requirements in 19 CFR 146 are met. The IOR and manufacturer FEI information is requested by FDA to expedite the admissibility review. Requests to participate in the WEF process are submitted to the FDA Import Division Office covering the intended port of entry.

We are also revising the information collection to include our Import Trade Auxiliary Communication System (ITACS), currently approved under OMB control number 0910–0842. The ITACS is used by the import trade community and was implemented to improve communication with FDA. By utilizing ITACS, respondents to the information collection have the ability to establish an account and electronically check the status of FDA-regulated entries and lines, submit entry documentation, submit the location of goods availability for those lines targeted for examination by the FDA, and check the estimated laboratory analysis completion dates for lines which have been sampled. For further information regarding ITACS, please visit our website at *https://www.fda.gov/industry/import-systems/itacs.*

Description of Respondents: Respondents to the information collection are domestic and foreign importers of FDA-regulated articles being imported or offered for import into the United States and entry filers who submit import entries on behalf of these importers.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part 1; subpart D	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Importers submission of data elements (preparing the required information).	85,480	10.05	859,074	0.05576 hours (3.346 minutes)	47,902
Entry filers (unique lines only)	3,419	12,196	41,698,124	0.04466 hours (2.68 minutes)	1,862,238
WEF participants	15	1	15	0.87 hours (52 minutes)	13.05
ITACS; creation of account	500	1	1	1	250
Total			42,557,214		1,910,403

[1] There are no capital or operational and maintenance costs associated with the information collection.

An importer of record may be the owner or purchaser of the article being imported or offered for import, or a customs broker licensed by CBP under 19 U.S.C. 1641 who has been designated by the owner, purchaser, or consignee to file the import entry. There is only one importer of record per entry. We are updating the number of responses and respondents since last OMB review of the information collection to reflect the best data available to the Agency from January 1, 2018, to December 31, 2018. Using these numbers, we update the number of importers to 85,480 and the number of entry filers to 3,419. We retain our currently approved estimate with regard to the number of responses per respondent and time per response as representative of the industry average.

Persons wishing to file weekly entries of FDA regulated products are encouraged to provide the information identified so that FDA can conduct a

[1] Some FTZs are covered by multiple Import Divisions.

preliminary admissibility assessment of the associated products and firms. This submission typically contains the information FDA requests for multiple products (*i.e.,* the respondent wishes to file weekly entries for multiple products and submits the information for each product together). Generally, submissions involving multiple products are significantly less burdensome on a per-product basis. We estimate that the burden for each product in a WEF submission is approximately 52.5 minutes, for a total of 13.125 hours annually. Depending on the product and scale of submission, this estimated burden can fall to as low as 15 minutes per product. The reason why this burden can be significantly higher than an ACE submission is that the WEF submission is done manually, typically through a spreadsheet. Filers submitting in ACE typically use software that is developed to specifically automate and expedite the entry submission process and allows filers to automatically upload entry information. While the WEF submission includes an initial one-time submission burden, we expect reduced burden over a long term because filers can subsequently submit one entry covering multiple withdrawals from the FTZ in any given seven-day period.

Finally, since developing and implementing ITACS we believe that most respondents to the information collection have realized the one-time burden associated with creating an account and we have therefore adjusted our estimate downward by 2,500 hours. At the same time, we retain our estimate that 500 new accounts will be established annually for a total of 250 burden hours.

Cumulatively these changes and adjustments result in a reduction in annual responses by 40,112,208, and an increase in burden hours by 124,891. These changes and adjustments reflect the realization of one-time burden associated with conforming to new CBP electronic reporting requirements since last OMB approval of the information collection that we believe no longer applies, together with the consolidation of related information collection activities associated with ITACS.

Dated: December 30, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–28419 Filed 1–2–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–3535]

Agency Information Collection Activities; Proposed Collection; Comment Request; Special Protocol Assessment; Guidance for Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection in the April 2018 guidance for industry entitled ''Special Protocol Assessment'' (Revision 1).

DATES: Submit either electronic or written comments on the collection of information by March 3, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before March 3, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 3, 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. 2016–N–3535 for ''Special Protocol Assessment; Guidance for Industry.'' 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: 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: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Special Protocol Assessment

OMB Control Number 0910–0470—Extension

This information collection approval request is for the 2018 FDA guidance for industry, ''Special Protocol Assessment'' (Revision 1) (83 FR 16367, April 16, 2018), that describes Agency procedures to evaluate issues related to the adequacy (*e.g.,* design, conduct, analysis) of certain proposed studies. A copy of the guidance is available from our website at *https://www.fda.gov/RegulatoryInformation/Guidances/default.htm.* The guidance describes procedures for sponsors to request special protocol assessment and for FDA to act on such requests. The guidance provides information on how FDA interprets and applies provisions of the Food and Drug Administration Modernization Act of 1997 and the specific Prescription Drug User Fee Act of 1992 (PDUFA) goals for special protocol assessment associated with the development and review of PDUFA products. The guidance describes the following two collections of information: (1) The submission of a notice of intent to request special protocol assessment of a carcinogenicity protocol; and (2) the submission of a request for special protocol assessment.

I. Notification for a Carcinogenicity Protocol

As described in the guidance, a sponsor interested in an FDA assessment of a carcinogenicity protocol should notify the appropriate division in FDA's Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER) of an intent to request special protocol assessment at least 30 days prior to submitting the request. With such notification, the sponsor should submit relevant background information so that FDA may review reference material related to carcinogenicity protocol design before receiving the carcinogenicity protocol.

II. Request for Special Protocol Assessment

The guidance asks that a request for special protocol assessment be submitted as an amendment to the investigational new drug application (IND) for the underlying product and that it be submitted to FDA in triplicate with Form FDA 1571 (*https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM083533.pdf*) attached. The guidance also suggests that the sponsor submit the cover letter to a request for special protocol assessment via fax to the appropriate division in CDER or CBER. FDA regulations (21 CFR 312.23(d)) state that information provided to us as part of an IND is to be submitted in triplicate and with the appropriate cover form, Form FDA 1571. An IND is submitted to FDA under existing regulations in part 312 (21 CFR part 312), which specifies the information that manufacturers must submit so that FDA may properly evaluate the safety and effectiveness of investigational drugs and biological products. The information collection requirements resulting from the preparation and submission of an IND under part 312 have been estimated by FDA, and the reporting and recordkeeping burden has been approved by OMB under OMB control number 0910–0014.

FDA suggests that the cover letter to the request for special protocol assessment be submitted via fax to the appropriate division in CDER or CBER to enable FDA staff to prepare for the arrival of the protocol for assessment. FDA recommends that a request for special protocol assessment be submitted as an amendment to an IND for two reasons: (1) To ensure that each request is kept in the administrative file with the entire IND and (2) to ensure that pertinent information about the request is entered into the appropriate tracking databases. Use of the information in FDA's tracking databases enables the appropriate Agency official to monitor progress on the evaluation of the protocol and to ensure that appropriate steps will be taken in a timely manner.

The guidance recommends that the following information should be submitted to the appropriate Center with each request for special protocol assessment so that the Center may quickly and efficiently respond to the request:

- Questions to FDA concerning specific issues regarding the protocol.
- All data, assumptions, and information needed to permit an adequate evaluation of the protocol, including: (1) The role of the study in the overall development of the drug; (2) information supporting the proposed trial, including power calculations, the choice of study endpoints, and other critical design features; (3) regulatory outcomes that could be supported by the results of the study; (4) final labeling that could be supported by the results of the study; and (5) for a stability

protocol, product characterization and relevant manufacturing data.

Description of Respondents: A sponsor, applicant, or manufacturer of a drug or biologic product that FDA regulates under the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act (42 U.S.C. 262) requesting special protocol assessment.

Burden Estimate: Table 1 provides an estimate of the annual reporting burden for notifications for a carcinogenicity protocol and requests for a special protocol assessment.

Notification for a Carcinogenicity Protocol: Based on the number of notifications for carcinogenicity protocols and the number of carcinogenicity protocols currently submitted to CDER and CBER, CDER estimates that it will receive approximately 188 notifications of an intent to request special protocol assessment of a carcinogenicity protocol per year from approximately 105 sponsors. CBER estimates that it will receive approximately one notification of an intent to request special protocol assessment of a carcinogenicity protocol per year from approximately one sponsor. The hours per response, which is the estimated number of hours that a sponsor would spend preparing the notification and background information to be submitted in accordance with the guidance, is estimated to be approximately 8 hours.

Requests for Special Protocol Assessment: Based on the number of requests for special protocol assessment currently submitted to CDER and CBER, CDER estimates that it will receive approximately 108 requests for special protocol assessment per year from approximately 105 sponsors. CBER estimates that it will receive approximately eight requests from approximately eight sponsors. The hours per response is the estimated number of hours that a respondent would spend preparing the information to be submitted with a request for special protocol assessment, including the time it takes to gather and copy questions to be posed to the Agency regarding the protocol and data, assumptions, and information needed to permit an adequate evaluation of the protocol. Based on our experience with these submissions, we estimate approximately 15 hours on average would be needed per response.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Notification for Carcinogenicity Protocols	106	1.78	189	8	1,510
Requests for Special Protocol Assessment Reports	113	1.66	116	15	1,740
Total			305		3,250

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The information collection reflects an adjustment in burden by 608 hours. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Dated: December 30, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–28408 Filed 1–2–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Countermeasures Injury Compensation Program OMB No. 0915–0334—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30 day comment period for this Notice has closed.

DATES: Comments on this ICR should be received no later than February 3, 2020.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Countermeasures Injury Compensation Program OMB No. 0915–0334—Extension.

Abstract: This is a request for continued OMB approval of the information collection requirements for the Countermeasures Injury Compensation Program (CICP or Program). The CICP, within the Division of Injury Compensation Programs (DICP), Healthcare Systems Bureau, HRSA, administers this compensation program as specified by the Public Readiness and Emergency Preparedness Act of 2005 (PREP Act).

The Secretary of HHS (Secretary) can issue a PREP Act declaration. When issued, the purpose of a declaration is to identify a disease, health condition, or a threat to health that is currently, or may in the future constitute, a public health emergency. The Secretary's declaration may recommend and encourage the development, manufacturing, distribution, dispensing, and administration or use of one or more covered countermeasures (*e.g.,* anthrax vaccine) to treat, prevent, or diagnose the disease, condition, or threat specified in the declaration.

A 60-day notice was published in the **Federal Register** on July 16, 2019, vol. 84, No. 136; pp. 33954–55. There were no public comments.

Need and Proposed Use of the Information: The CICP provides compensation to eligible individuals who suffer serious injuries directly caused by a covered countermeasure administered or used pursuant to a PREP Act Declaration or to their estates and/or to certain survivors.

To determine whether a requester is eligible for Program benefits (compensation) for a countermeasure injury, the CICP staff must review the Request for Benefits Package (RFB) that includes the following:

(1) Request for Benefits Form and Supporting Documentation

The Request for Benefits Form and supporting documentation initiates the CICP claims review process. They also serve as the CICP's mechanism for gathering required information about the requester, documenting the use or administration of a countermeasure, and obtaining medical information about the countermeasure recipient.

(2) Authorization for Use or Disclosure of Health Information Form (Authorization Form)

The requester completes the Authorization Form and permits medical providers to disclose the countermeasure recipient's health information via medical records to the CICP for determining eligibility for CICP benefits.

(3) Additional Documentation and Certification

During the eligibility review, the CICP provides requesters with the opportunity to supplement their RFB with additional medical records and supporting documentation before the Program makes a final decision. The CICP asks requesters to complete and sign a form indicating whether they intend to submit additional documentation prior to the final determination of their case. After the CICP makes a final decision on a case, there are no other opportunities for a requester to submit additional medical records or supporting documents.

(4) Benefits Package and Supporting Documentation

A requester who is an injured countermeasure recipient may be eligible to receive benefits for unreimbursed medical expenses and/or lost employment income. The estate of a deceased countermeasure recipient may also be eligible to receive payment for unreimbursed medical expenses and/or lost employment income accrued prior to the injured countermeasure recipient's death. These documents ask the requester to submit documentation of the countermeasure recipient's unreimbursed medical expenses and lost employment income. If death was the result of the administration or use of the countermeasure, certain survivor(s) of eligible deceased countermeasure recipients may be eligible to receive a death benefit, but not unreimbursed medical expenses or lost employment income benefits (42 CFR 110.33). These documents request additional information, such as a marriage license, from the requester to prove that they are a survivor of the deceased countermeasure recipient.

The RFB that the CICP sends to requesters who may be eligible for compensation includes certification forms and instructions outlining the supporting documentation needed to determine the types and amounts of benefits. This documentation is required under 42 CFR 110.60–110.63 of the CICP's implementing regulation to enable the Program to determine the types and amounts of benefits the requester may be eligible to receive.

Likely Respondents: Countermeasure recipients are the most likely respondents to this **Federal Register** notice regarding the CICP information collection request because the CICP reviews, and if eligible, compensates countermeasure recipient injury claims.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Request for Benefits Form and Supporting Documentation	100	1	100	11	1,100
Authorization for Use or Disclosure of Health Information Form	100	1	100	2	200
Additional Documentation and Certification	30	1	30	.75	22.5
Benefits Package and Supporting Documentation	30	1	30	.125	3.75
Total	260		260		1,326.25

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2019–28367 Filed 1–2–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Data System for Organ Procurement and Transplantation Network, OMB No. 0915–0157—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for an opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than March 3, 2020.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Data System for Organ Procurement and Transplantation Network OMB No. 0915–0157–Extension.

Abstract: Section 372 of the Public Health Service (PHS) Act (42 U.S.C. 274) requires that the Secretary, by contract, provide for the establishment and operation of an Organ Procurement and Transplantation Network (OPTN). This is a request for an extension of the current OPTN data collection forms associated with an individual's clinical characteristics at the time of registration, transplant, and follow-up after the transplant. Data are collected from transplant hospitals, organ procurement organizations, and histocompatibility laboratories. The information is used to indicate the disease severity of transplant candidates, to monitor compliance of member organizations with OPTN rules and requirements, and to report periodically on the clinical and scientific status of organ donation and transplantation in this country.

Need and Proposed Use of the Information: Data are used to develop transplant, donation, and allocation policies, to determine whether institutional members are complying with policy, to determine member-specific performance, to ensure patient safety, and to fulfill the requirements of the OPTN Final Rule. The practical utility of the data collection is further enhanced by requirements that the OPTN data must be made available, consistent with applicable laws, for use by OPTN members, the Scientific Registry of Transplant Recipients, the Department of Health and Human Services, and members of the public for evaluation, research, patient information, and other important purposes.

Burden hours have increased since the last reporting period due to an increase in the number of transplant programs for some organs and the overall increase in transplant surgeries at existing programs as well. An increased number of transplants results in an increasing number of forms that require completion while the amount of time it takes to complete the forms remains the same.

Likely Respondents: Transplant programs, organ procurement organizations, and histocompatibility laboratories.

Burden Statement: Burden, in this context, means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized Burden Hours:

Form name	Number of respondents	Number of responses per respondent *	Total responses	Average burden per response (in hours)	Total burden hours
Deceased Donor Registration	58	185.0	10,731	1.1	11,804.1
Living Donor Registration	300	22.9	6,855	1.8	12,339.0
Living Donor Follow Up	300	62.2	18,669	1.3	24,269.7
Donor Histocompatibility	147	124.0	18,226	0.2	3,645.2
Recipient Histocompatibility	147	225.1	33,090	0.4	13,236.0
Heart Candidate Registration	140	33.7	4,717	0.9	4,245.3
Heart Recipient Registration	140	24.3	3,406	1.2	4,087.2
Heart Follow Up (6 Month)	140	22.0	3,082	0.4	1,232.8
Heart Follow Up (1–5 Year)	140	90.6	12,686	0.9	11,417.4
Heart Follow Up (Post 5 Year)	140	154.0	21,556	0.5	10,778.0
Heart Post-Transplant Malignancy Form	140	12.8	1,788	0.9	1,609.2
Lung Candidate Registration	71	45.2	3,210	0.9	2,889.0
Lung Recipient Registration	71	35.7	2,532	1.2	3,038.4
Lung Follow Up (6 Month)	71	32.4	2,297	0.5	1,148.5
Lung Follow Up (1–5 Year)	71	118.8	8,438	1.1	9,281.8
Lung Follow Up (Post 5 Year)	71	116.5	8,271	0.6	4,962.6
Lung Post-Transplant Malignancy Form	71	19.7	1,400	0.4	560.0
Heart/Lung Candidate Registration	69	1.0	67	1.1	73.7
Heart/Lung Recipient Registration	69	0.5	32	1.3	41.6

Form name	Number of respondents	Number of responses per respondent*	Total responses	Average burden per response (in hours)	Total burden hours
Heart/Lung Follow Up (6 Month)	69	0.4	31	0.8	24.8
Heart/Lung Follow Up (1–5 Year)	69	1.1	79	1.1	86.9
Heart/Lung Follow Up (Post 5 Year)	69	3.3	228	0.6	136.8
Heart/Lung Post-Transplant Malignancy Form	69	0.3	21	0.4	8.4
Liver Candidate Registration	146	90.3	13,183	0.8	10,546.4
Liver Recipient Registration	146	56.5	8,256	1.2	9,907.2
Liver Follow-up (6 Month–5 Year)	146	266.6	38,919	1.0	38,919.0
Liver Follow-up (Post 5 Year)	146	316.6	46,225	0.5	23,112.5
Liver Recipient Explant Pathology Form	146	10.6	1,544	0.6	926.4
Liver Post-Transplant Malignancy	146	16.3	2,387	0.8	1,909.6
Intestine Candidate Registration	20	7.0	139	1.3	180.7
Intestine Recipient Registration	20	5.2	104	1.8	187.2
Intestine Follow Up (6 Month–5 Year)	20	26.2	524	1.5	786.0
Intestine Follow Up (Post 5 Year)	20	37.2	744	0.4	297.6
Intestine Post-Transplant Malignancy Form	20	2.1	42	1.0	42.0
Kidney Candidate Registration	237	168.8	39,998	0.8	31,998.4
Kidney Recipient Registration	237	89.4	21,195	1.2	25,434.0
Kidney Follow-Up (6 Month–5 Year)	237	431.9	102,350	0.9	92,115.0
Kidney Follow-up (Post 5 Year)	237	449.4	106,507	0.5	53,253.5
Kidney Post-Transplant Malignancy Form	237	22.6	5,365	0.8	4,292.0
Pancreas Candidate Registration	133	2.8	368	0.6	220.8
Pancreas Recipient Registration	133	1.5	194	1.2	232.8
Pancreas Follow-up (6 Month–5 Year)	133	7.9	1,047	0.5	523.5
Pancreas Follow-up (Post 5 Year)	133	15.9	2,119	0.5	1,059.5
Pancreas Post-Transplant Malignancy Form	133	0.7	97	0.6	58.2
Kidney/Pancreas Candidate Registration	133	9.8	1,297	0.6	778.2
Kidney/Pancreas Recipient Registration	133	7.7	1,028	1.2	1,233.6
Kidney/Pancreas Follow-up (6 Month–5 Year)	133	32.8	4,363	0.5	2,181.5
Kidney/Pancreas Follow-up (Post 5 Year)	133	57.8	7,688	0.6	4,612.8
Kidney/Pancreas Post-Transplant Malignancy Form	133	2.2	292	0.4	116.8
VCA Candidate Registration	27	0.9	24	0.4	9.6
VCA Recipient Registration	27	1.6	43	1.3	55.9
VCA Recipient Follow Up	27	0.7	18	1.0	18.0
Total	6,204		567,472		425,925.1

*The Number of Responses per Respondent was calculated by dividing the Total Responses by the Number of Respondents and rounding to the nearest tenth.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2019–28370 Filed 1–2–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: The National Health Service Corps and Nurse Corps Interest Capture Form OMB No. 0915–0337—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than March 3, 2020.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: The National Health Service Corps and Nurse Corps Interest Capture Form OMB No. 0915–0337—Extension

Abstract: The National Health Service Corps (NHSC) and the Nurse Corps of

the Bureau of Health Workforce (BHW), HRSA, are both committed to improving the health of the Nation's underserved by uniting communities in need with caring health professionals and by supporting communities' efforts to build better systems of care. The NHSC and Nurse Corps Interest Capture Form, which is used when HRSA staff presents information regarding HRSA funding opportunities for health profession students and providers at national and regional conferences and at campus recruiting events, is an optional form that a health profession student, licensed clinician, faculty member, or clinical site administrator can complete and submit to BHW representatives at an event. The purpose of the form is to enable individuals and clinical sites to ask BHW for periodic program updates and other general information regarding opportunities with the NHSC and/or the Nurse Corps via email. Completed forms contain information such as the names of the individuals, their email address(es), their city and state, the organization where they are employed (or the school which they attend), the year they intend to graduate (if applicable), how they heard about the NHSC/Nurse Corps, and the programs in which they are interested. Assistance in completing the form will be given by the BHW staff person (or BHW representative) who is present at the event.

Need and Proposed Use of the Information: The need and purpose of this information collection is to share resources and information regarding the NHSC and Nurse Corps programs with interested conference/event participants.

Likely Respondents: Individual and potential service site conference/event participants interested in the NHSC or Nurse Corps programs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHSC and Nurse Corps Interest Capture Form	2,400	1	2,400	.025	60
Total	2,400		2,400		60

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, and (3) ways to enhance the quality, utility, and clarity of the information to be collected.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2019–28368 Filed 1–2–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Use of the CD47 Phosphorodiamidate Morpholino Oligomers for the Treatment, Prevention, and Diagnosis of Solid Tumors

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this notice to Morphiex Biotherapeutics (''Morphiex'') located in Boston, MA.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before January 21, 2020 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: Jaime Greene, Senior Licensing and Patenting Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530, MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702, Telephone: (240) 276–5530; Facsimile: (240) 276–5504; Email: *greenejaime@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: This is in reference to previous notices 83 FR 22501, which was a Prospective Grant of an Exclusive Patent License to Morphiex for the field of use ''the use of the CD47 phosphorodiamidate morpholino oligomers (PMO, morpholino, Sequence: 5′-CGTCACAGGCAGGACCCACTGCCCA-3′) for the treatment, prevention, and diagnosis of hematological cancers (*e.g.* lymphoma, leukemia, multiple myeloma), excluding uses in combination with radiotherapy'', and 84 FR 1764, which was a Prospective Grant of an Exclusive Patent License to Morphiex for the field of use ''the use of the CD47 phosphorodiamidate morpholino oligomers (PMO, morpholino, Sequence: 5′-CGTCACAGGCAGGACCCACTGCCCA-3′) for the treatment, prevention, and diagnosis of hematological cancers (*e.g.* lymphoma, leukemia, multiple myeloma), excluding uses in combination with radiotherapy.''

Intellectual Property

1. Provisional Patent Application No. 61/621,994, filed April 9, 2012, now abandoned (HHS Ref. No. E–086–2012–0–US–01);
2. Provisional Patent Application No. 61/735,701, filed December 11, 2012, now abandoned (HHS Ref. No. E–086–2012–1–US–01);
3. PCT Patent Application No. PCT/US2013/035838, filed April 9, 2013, now abandoned (HHS Ref. No. E–086–2012–2–PCT–01);
4. Australian Patent No. 2013246040, issued March 14, 2019, filed April 9, 2013 (HHS Ref. No. E–086–2012–2–AU–02);
5. Canadian Patent No. 2869913, issued September 10, 2019, filed April 9, 2013 (HHS Ref. No. E–086–2012–2–CA–03);

6. European Patent No. 2836591, issued June 6, 2018, filed April 9, 2013 (HHS Ref. No. E–086–2012–2–EP–04);
7. US Patent No. 10407665, issued September 10, 2019, filed October 2, 2014 (HHS Ref. No. E–086–2012–2–US–05);
8. German Patent No. 2836591, issued June 6, 2018, filed April 9, 2013 (HHS Ref. No. E–086–2012–2–DE–07);
9. French Patent No. 2836591, issued June 6, 2018, filed April 9, 2013 (HHS Ref. No. E–086–2012–2–FR–08);
10. United Kingdom Patent No. 2836591, issued June 6, 2018, filed April 9, 2013 (HHS Ref. No. E–086–2012–2–GB–09);
11. US Patent Application No. 16/521,251, filed July 24, 2019 (HHS Ref. No. E–086–2012–2–US–10);
12. Provisional Patent Application No. 61/086,991, filed August 7, 2008, now abandoned (HHS Ref. No. E–153–2008–0–US–01);
13. PCT Patent Application No. PCT/US2009/052902, filed August 5, 2009, now abandoned (HHS Ref. No. E–153–2008–0–PCT–02);
14. Australian Patent No. 2009279676, issued July 30, 2015, filed August 5, 2009 (HHS Ref. No. E–153–2008–0–AU–03);
15. Canadian Patent No. 2732102, issued January 2, 2018, filed August 5, 2009 (HHS Ref. No. E–153–2008–0–CA–04);
16. European Patent No. 2340034, issued January 27, 2016, filed August 5, 2009 (HHS Ref. No. E–153–2008–0–EP–05);
17. US Patent No. 8951527, issued February 10, 2015, filed February 3, 2011 (HHS Ref. No. E–153–2008–0–US–06);
18. German Patent No. 602009036069.8, issued January 27, 2016, filed August 5, 2009 (HHS Ref. No. E–153–2008–0–DE–07);
19. French Patent No. 2340034, issued January 27, 2016, filed August 5, 2009 (HHS Ref. No. E–153–2008–0–FR–08);
20. United Kingdom Patent No. 2340034, issued January 27, 2016, filed August 5, 2009 (HHS Ref. No. E–153–2008–0–GB–09);
21. Provisional Patent Application No. 61/779,587, filed March 13, 2013, now abandoned (HHS Ref. No. E–296–2011–0–US–01);
22. PCT Patent Application No. PCT/US2014/025989, filed March 13, 2014, now abandoned (HHS Ref. No. E–296–2011–0–PCT–02);
23. Australian Patent No. 2014244083, issued January 10, 2019, filed March 13, 2014, now abandoned (HHS Ref. No. E–296–2011–0–AU–03);
24. Canadian Patent Application No. 2905418, filed March 13, 2014 (HHS Ref. No. E–296–2011–0–CA–04);
25. European Patent Application No. 14718255.4, filed March 13, 2014 (HHS Ref. No. E–296–2011–0–EP–05);
26. US Patent Application No. 14/775,428, filed September 11, 2015 (HHS Ref. No. E–296–2011–0–US–06).

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America. The prospective exclusive license territory may be worldwide, and the field of use may be limited to those previously advertised in **Federal Register** notices 83 FR 22501 84 FR 1764, described in the supplementary information section above.

This technology concerns CD47, originally named integrin-associated protein, which is a receptor for thrombospondin-1 (TSP1), a major component of platelet α-granules from which it is secreted on platelet activation. A number of important roles for CD47 have been defined in regulating the migration, proliferation, and survival of vascular cells, and in regulation of innate and adaptive immunity. Nitric Oxide (NO) plays an important role as a major intrinsic vasodilator, and it increases blood flow to tissues and organs. Disruption of this process leads to peripheral vascular disease, ischemic heart disease, stroke, diabetes and many more significant diseases. The inventors have discovered that TSP1 blocks the beneficial effects of NO and prevents it from dilating blood vessels and increasing blood flow to organs and tissues. Additionally, they discovered that this regulation requires TSP1 interaction with its cell receptor, CD47. These inventors have also found that blocking TSP1–CD47 interaction through the use of antisense morpholino oligonucleotides, peptides or antibodies have several therapeutic benefits including the treatment of cancer.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: December 20, 2019.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2019–28355 Filed 1–2–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT: Licensing information may be obtained by communicating with Vidita Choudhry, Ph.D., National Heart, Lung, and Blood, Office of Technology Transfer and Development, 31 Center Drive, Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–594–4095; email: *vidita.choudhry@nih.gov.* A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION: Technology description follows.

Therapeutic and Diagnostic Targets for Severe RSV Infection

Respiratory Syncytial Virus (RSV) infects nearly all children by their second birthday. RSV usually causes mild respiratory illness, however, a subset of patients experience severe infection that require hospitalization. Successful host defense against viral pathogens requires rapid recognition of the virus and activation of both innate and adaptive immunity. Toll-Like Receptors (TLRs) are responsible for mounting an innate immune response and genetic variations within TLRs modulate severity of infection. Researchers at NIEHS have identified a single nucleotide polymorphism (SNP) in TLR8 that is associated with RSV disease severity. The SNP is p53-responsive allele, indicating that p53, a master cell cycle regulator, can strongly influence TLR8 mediated immune responses. Identification of this SNP can inform diagnosis and prognosis of RSV disease and serve as a therapeutic target for severe RSV infection.

Potential Commercial Applications:

- Development of therapeutics against severe RSV infection
- Diagnostic biomarker

Competitive Advantages:

- Enhance the innate immune response to respiratory infection
- Improve clinical trial outcome in patients with TLR8 mediated RSV infection

Development Stage:

- Early stage
- *In vitro* data available

Inventors: Michael Resnick (NIEHS), Daniel Menendez (NIEHS), Steven Kleeberger (NIEHS), and Fernando Polack (Infant Foundation).

Intellectual Property: HHS Reference No. E–072–2019–0; US Application No. 62/881,656.

Licensing Contact: Vidita Choudhry, Ph.D.; 301–594–4095; *vidita.choudhry@nih.gov*. This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404.

Dated: December 26, 2019.

Vidita Choudhry,

Technology Development Specialist, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2019–28358 Filed 1–2–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed 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 Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Subcommittee.

Date: February 21, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Helen Huang, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, Bethesda, MD 20817, 301–435–8380, *helen.huang@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Function, Integration, and Rehabilitation Sciences Subcommittee.

Date: February 26, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Helen Huang, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, Bethesda, MD 20817, 301–435–8380, *helen.huang@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: December 27, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–28359 Filed 1–2–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Early Phase Clinical Trials in Imaging and Image-Guided Interventions (R01 Clinical Trial Required).

Date: January 28, 2020.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ileana Hancu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, Bethesda, MD 20817, 301–402–3911, *ileana.hancu@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Secondary Analyses of Existing Datasets in Heart, Lung and Blood Diseases and Sleep Disorders.

Date: January 28, 2020.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–379–5632, *hfriedman@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 27, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–28357 Filed 1–2–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Development and Commercialization of CD19/CD22 Chimeric Antigen Receptor (CAR) Therapies for the Treatment of B-Cell Malignancies

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this Notice to CJ Healthcare, (''CJ''), located in Seoul, Republic of Korea.

DATES: Only written comments and/or applications for a license which are received by the National Cancer

Institute's Technology Transfer Center on or before January 21, 2020 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Jim Knabb, Senior Technology Transfer Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530, MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702; Telephone: (240) 276–7856; Facsimile: (240) 276–5504; Email: *jim.knabb@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

E–016–2015: Chimeric Antigen Receptor Targeting Both CD19 and CD22

1. US Provisional Patent Application 62/135,442, filed March 19, 2015 (E–106–2015–0–US–01);
2. International Patent Application PCT/US2016/023055, filed March 18, 2016 (E–106–2015/0–PCT–02)
3. US Patent Application No.: 15/559,485, filed September 19, 2017 (E–E–106–2015/0–US–03)

E–017–2017: CD19/CD22 Bicistronic CAR Targeting Human B-Cell Malignancies

1. US Provisional Patent Application 62/506,268, filed May 15, 2017 (E–017–2017–0–US–01);
2. International Patent Application PCT/US2018/032,809, filed May 15, 2018 (E–017–2017/0–PCT–02)

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide, and the fields of use may be limited to the following:

Treatment of B cell malignancies using autologously-derived, lentiviral vector transduced, T cells expressing chimeric antigen receptor(s) (CAR) dual specific for CD19 and CD22, utilizing the anti-CD19 antigen binding domain of the FM63 antibody and the anti-CD22 antigen binding domain of the M971 antibody

This technology discloses CAR therapies that target both CD19 and CD22 by utilizing the anti-CD19 binder known as FM63 and the anti-CD22 binder known as M971. CD19 and CD22 are each expressed on the surface of B cells in B cell malignancies and are hallmark examples of antigen targeting in CAR-T therapies, with CD19-targeting CAR-T therapies being the first FDA approved CAR-T, and CD22-targeting CAR-T showing early promise in clinical trials for ALL and NHL.

This Notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published Notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: December 20, 2019.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2019–28356 Filed 1–2–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–60]

30-Day Notice of Proposed Information Collection: Survey of Market Absorption of New Multifamily Units (SOMA); OMB #2528–0013

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: Comments Due Date: February 3, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: OIRA *Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on Friday, November 8, 2019 at 84 FR 60404.

A. Overview of Information Collection

Title of Information Collection: Survey of Market Absorption of New Multifamily Units (SOMA).

OMB Approval Number: 2528–0013.

Type of Request: Revision.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
SOMA	12,000.00	4.00	48,000.00	* .125	6,000.00	$36.75	$220,500.00

* (30 minutes' total divided by 4 interviews).

Form Number: N/A.

Description of the need for the information and proposed use: The Survey of Market Absorption (SOMA) provides the data necessary to measure the rate at which new rental apartments and new condominium apartments are absorbed; that is, taken off the market, usually by being rented or sold, over the course of the first twelve months following completion of a building. The data are collected at quarterly intervals until the twelve months conclude, or until the units in a building are completely absorbed. The survey also provides estimates of certain characteristics, including asking rent/price, number of units, and number of bedrooms. The survey provides a basis for analyzing the degree to which new apartment construction is meeting the present and future needs of the public.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: December 19, 2019.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–28425 Filed 1–2–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–56]

30-Day Notice of Proposed Information Collection: Application for Distressed Cities Technical Assistance NOFA

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: Comments Due Date: February 3, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: OIRA *Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 4, 2019 at 84 FR 59411.

A. Overview of Information Collection

Title of Information Collection: Application for Distressed Cities Technical Assistance NOFA.

OMB Approval Number: 2528–New.

Type of Request: New collection.

Form Number: TBD.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Pre-Award							
Narrative Response	10.00	1.00	10.00	40.00	400.00	$25.00	$10,000.00
HUD SF–424	10.00	1.00	10.00	2.00	20.00	25.00	500.00
HUD–2880	10.00	1.00	10.00	2.00	20.00	25.00	500.00
SF–LLL *.							
Total	10.00			44.00	440.00	25.00	11,000.00

Description of the need for the information and proposed use: Application information is needed to determine the competition winner, *i.e.,* the technical assistance provider best able to help distressed communities adopt effective, efficient, and sustainable financial management practices, build capacity for financial management, economic revitalization, affordable housing, and disaster recovery, and improve knowledge of federal development programs.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated

collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: December 18, 2019,

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–28428 Filed 1–2–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–59]

30-Day Notice of Proposed Information Collection: Opportunity Zone Grant Certification Form

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* February 3, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P.Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 10, 2019 at 84 FR 54629.

A. Overview of Information Collection

Title of Information Collection: Opportunity Zone Grant Certification Form.

OMB Approval Number: 2501–New.

Type of Request: New collection.

Form Number: HUD–XXXX Certification for Opportunity Zone Preference Points.

Description of the need for the information and proposed use: This collection is a new collection regarding information for preference points in certain competitive federal grants and technical assistance applications. In accordance with Executive Order 13853, Establishing the White House Opportunity and Revitalization Council (''WHORC'' or ''Council''), signed by President Trump on December 12, 2018, the Department of Housing and Urban Development (HUD) has added preference points to grants in an effort to strategically target investment in communities designated as Opportunity Zones. To ensure that HUD's resources are being used to further the mission of the Executive Order and the WHORC Implementation Plan (published April 17, 2019), HUD has drafted the proposed certification form. This form will certify that valuable HUD resources are in fact being targeted to and expended in America's most economically distressed areas, including Opportunity Zones. Additionally, it will enable HUD to gather and analyze the most accurate data regarding the use of taxpayer funds; specifically, how they are being utilized by our grantee partners to support the President's mission of revitalizing distressed communities. The collection of this information will help to guide the Department through future grant awards and inform HUD's strategy to maximize non-profit and private sector investment.

Additionally, pending approval of this form on HUD's behalf, we anticipate that the following Agencies will also implement this form: Agriculture, Commerce, Education, Justice, Health and Human Services, Labor, Transportation, Interior, Commerce, Energy, Veterans Affairs, the Small Business Administration and the Environmental Protection Agency.

Public and private investment in America's historically overlooked communities will be used to increase the supply of affordable housing to bolster economic development, support entrepreneurship, promote neighborhood safety, and expand employment and educational opportunities. For more information about the mission of the WHORC and to learn about the activities and vision of the federal agencies that comprise the Council, visit *https://www.hud.gov/sites/dfiles/Main/documents/WHORC-Implementation-Plan.pdf.*

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Certification for OZ Preference Form	737.00	2.26	1,665.62	.20	333.12	14.02	$4,670.34
Total	737.00	2.26	1,665.62	.2.0	333.12	14.02	4,670.34

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 19, 2019.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–28427 Filed 1–2–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–57]

30-Day Notice of Proposed Information Collection: Continuum of Care Homeless Assistance—Technical Submission

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* February 3, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P.Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 11, 2019 at 84 FR 54916.

A. Overview of Information Collection

Title of Information Collection: Continuum of Care Program Homeless Assistance Application—Technical Submission.

OMB Approval Number: 2506–0183.

Type of Request: Reinstatement of currently approved collection.

Form Number: HUD–40090–3a.

Description of the need for the information and proposed use: This submission is to request an extension of a currently approved collection for reporting burden associated with the Technical Submission phase of the Continuum of Care (CoC) Program Application. This submission is limited to the Technical Submission process under the CoC Program interim rule, as authorized by the HEARTH Act. Applicants who are successful in the CoC Program Competition are required to submit more detailed technical information before grant agreement. The information to be collected will be used to ensure that technical requirements are met prior to the execution of a grant agreement. The technical requirements relate to a more extensive description of the budgets for administration costs, timelines for project implementation, match documentation and other project specific documentation, and information to support the resolution of grant conditions. HUD will use this detailed information to determine if a project is financially feasible and whether all proposed activities are eligible. All information collected is used to carefully consider conditional applicants for funding. If HUD collects less information, or collected it less frequently, the Department could not make a final determination concerning the eligibility of applicants for grant funds and conditional applicants would not be eligible to sign grant agreements and receive funding. To see the regulations for the CoC Program and applicable supplementary documents, visit HUD's Homeless Resource Exchange page at *https://www.hudexchange.info/programs/coc/.* The statutory provisions and the implementing interim rule (also found at 24 CFR part 587) that govern the program require the information provided by the Technical Submission.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual Cost
Exhibit 3 CoC Technical Submissions *e-snaps* Forms, formerly HUD–40090–3(a–b)	750.00	1.00	750.00	8.00	6,000.00	47.52	285,120.00
Submission Subtotal	750.00	1.00	750.00	8.00	6,000.00	47.52	285,120.00
Total Grant Program Application Collection.							
Total	750.00	1.00	750.00	8.00	6,000.00	47.52	285,120.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: December 19, 2019.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–28426 Filed 1–2–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX20EN05ESBJF00; OMB Control Number 1028–0096/Renewal]

Agency Information Collection Activities; Request for Comments; Department of the Interior Regional Climate Adaptation Science Centers

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before February 3, 2020.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0096 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Doug Beard, Chief of the USGS National Climate Adaptation Science Center, by email at *dbeard@usgs.gov,* or by telephone at 703–648–5212.

You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on October 17, 2019, 84 FR 55581. No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The U.S. Geological Survey (USGS) manages eight Department of the Interior (DOI) Regional Climate Adaptation Science Centers (CASCs). Each CASC involves a cooperative agreement with a host institution. The host institution agreements are periodically re-competed, requiring collection of information from potential host institutions. In addition, this information collection addresses quarterly and annual reporting required of host institutions.

Title of Collection: Department of the Interior Regional Climate Adaptation Science Centers.

OMB Control Number: 1028–0096.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents/Affected Public: Institutions that are expected to propose to serve as CASC host or partner institutions include state, local government, and tribal entities, including academic institutions. Existing host institutions are state academic institutions.

Total Estimated Number of Annual Respondents: USGS expects to request proposals for a maximum of three CASCs in any year, and to receive an average of 5 proposals per CASC-request, for a total of 15 proposals in any single year. The USGS expects to enter into hosting agreements with a minimum of eight CASC host institutions.

Total Estimated Number of Annual Responses: The USGS would request quarterly financial statements and annual progress reports covering host agreements from eight institutions. In addition, the USGS expects to have in place approximately 40 cooperative agreements per year addressing specific research projects funded under these hosting agreements. Each of these 40 agreements requires quarterly financial statements and one annual progress report.

Estimated Completion Time per Response: Each proposal for CASC hosting is expected to take 200 hours to complete. The time required to complete quarterly and annual reports for any specific host cooperative agreement or research project agreement is expected to total 2.5 hours per report.

Total Estimated Number of Annual Burden Hours: A maximum of 3,120 hours in years when proposals are requested, and 120 hours in those years with only quarterly and annual reporting.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Information will be collected one time every five years (approximately) for each CASC, to enable re-competition of CASC hosting agreements. In addition, host institutions are required to fill four quarterly financial statements and one annual progress report.

Total Estimated Annual Nonhour Burden Cost: There are no ''non-hour cost'' burdens associated with this collection of information.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Thomas Beard,

Chief USGS, National Climate Adaptation Science Center.

[FR Doc. 2019–28366 Filed 1–2–20; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF07000.L10200000.DS0000.20X]

Notice of Availability of the Final Environmental Impact Statement for Domestic Sheep Grazing Permit Renewals, Gunnison Field Office, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for Domestic Sheep Grazing Permit Renewals in the Gunnison Field Office and by this notice is announcing its availability.

DATES: The BLM will not issue a final decision on the proposal for a minimum of 30 days after the date that the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will issue a proposed decision, followed by a 15-day protest period and a 30-day appeal period for the final decision.

ADDRESSES: Copies of the Final EIS for Domestic Sheep Grazing Permit Renewals are available for review at Gunnison Field Office, 210 West Spencer, Gunnison, CO 81230. Interested persons may also review the Final EIS on the internet at *https://go.usa.gov/xQTyQ.* Click the ''Documents'' link on the left side of the screen to find the electronic version of the document.

FOR FURTHER INFORMATION CONTACT: Kristi Murphy, Outdoor Recreation Planner, 970–642–4955; 210 West Spencer, Gunnison, CO 81230; email: *kmurphy@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 Ms. Murphy during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM Gunnison Field office is proposing to renew the permits on nine domestic sheep grazing allotments, totaling 65,710 acres in Gunnison, Hinsdale and Ouray counties in Colorado. In 2015, the BLM published a Notice of Intent to prepare an EIS, initiating public scoping to identify issues through public participation and collaboration with partners. Initial scoping with internal staff, cooperating agencies, and the public identified the risk of contact and disease transmission between domestic sheep and Rocky Mountain bighorn sheep as the primary issue. Additional issues identified during scoping included potential impacts to threatened and endangered species, local and regional economics, cultural resources, Native American religious concerns, and public land health. The purpose of the action is to determine whether or not to authorize domestic sheep or goat grazing on nine BLM allotments, such that domestic sheep or goat grazing is in compliance with the Gunnison Resource Area Resource Management Plan, as amended, and BLM policy. The need for the action is to respond to permit applications for the nine allotments.

The BLM published a Notice of Availability on June 28, 2019, announcing the public comment period for the draft EIS (84 FR 31088). The draft EIS included alternatives that responded to the purpose and need, reduced the risk of contact and disease transmission, made progress in achieving land health standards, met objectives of the Canada Lynx Conservation Assessment and Strategy, and met the habitat and management guidelines of the Candidate Conservation Agreement for Gunnison Sage-Grouse and the draft Recovery Plan for Gunnison Sage-Grouse. The Draft EIS was available for a 45-day public comment period. The BLM hosted public meetings on July 17 and 18, 2019, in Montrose and Lake City, CO, respectively. The BLM received 31 comment submissions.

Alternatives analyzed in the EIS include the Proposed Action generated by the permittee applications. This alternative would provide grazing on nine allotments. Alternative B is the no-action alternative and would continue current management. Alternative C emphasizes a reduction in the risk of contact between domestic sheep/goats and Rocky Mountain bighorn sheep by not authorizing domestic sheep/goat grazing in pastures that overlap with Rocky Mountain bighorn sheep summer range. Alternative D emphasizes reduction of risk by not authorizing domestic sheep/goat grazing in the overall range of Rocky Mountain bighorn sheep. Alternative E is the no-grazing alternative. The BLM completed a risk of contact model for each of the action alternatives to aid in analyzing the potential levels of sheep interaction.

The BLM did not identify a preferred alternative in the Draft EIS but has identified a preferred alternative in the Final EIS, as required by Council on Environmental Quality regulations. The BLM has identified Alternative C as the preferred alternative. Alternative C applies new Terms and Conditions and eliminates domestic sheep/goat grazing in Rocky Mountain bighorn sheep summer range, providing additional spatial and temporal separation of the species.

The BLM considered comments on the Draft EIS received from the public and internal BLM review, and made changes in the Final EIS as appropriate. Public comments resulted in the addition of clarifying text and correction of data discrepancies in the EIS, but did not significantly change the alternatives.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

Jamie E. Connell,

Colorado State Director.

[FR Doc. 2019–28397 Filed 1–2–20; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029322; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: State University of New York at Oswego, Oswego, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The State University of New York at Oswego, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the State University of New York at

Oswego. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the State University of New York at Oswego at the address in this notice by February 3, 2020.

ADDRESSES: Alanna Ossa, NAGPRA Coordinator, State University of New York at Oswego, 313 Mahar Hall, Department of Anthropology, Oswego, NY 13126, telephone (315) 312–4172, email *alanna.ossa@oswego.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the State University of New York at Oswego, Oswego, NY, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In an unknown time, 469 cultural items were removed from unknown sites in Oswego, Onondaga, Cayuga, Madison, Wayne, and St. Lawrence Counties, NY. These items were recovered as part of years of field schools and projects run by Peter Pratt in central NY while he was teaching at SUNY Oswego, and were transferred at an unknown time to SUNY Oswego. The 469 unassociated funerary objects are one effigy vessel; two soil samples; 30 plain and decorated incised pottery body sherds; four charcoal samples; one clay/daub; five unidentified faunal bones; one ground stone; one charcoal sample; 225 plain and decorated incised pottery body and rim sherds; two unidentified lithics; two unidentified faunal bones; one ground stone hand axe; 57 plain and decorated incised pottery rim and body sherds; 27 unidentified faunal bones; seven chert flakes and shatter; 53 plain and decorated incised pottery rim and body sherds; 28 plain and decorated incised pottery rim and body sherds; 11 miscellaneous lithics including groundstone, shatter, and preforms; one pottery pipe and refitted pieces; five pottery pipes; one effigy head pottery pipe; one effigy pottery pipe; and three pottery pipe parts.

Based on the history of Peter Pratt's research program and the provenience of the materials recovered from his multiple decades of excavation in central NY, these items were more likely than not recovered via local donations made during one of his excavations within Oneida, Onondaga, and Cayuga sites, as this was a common feature of his field school materials.

Determinations Made by the State University of New York at Oswego

Officials of the State University of New York at Oswego have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 469 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Cayuga Nation; Oneida Indian Nation (previously listed as the Oneida Nation of New York); and the Onondaga Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Alanna Ossa, NAGPRA Coordinator, State University of New York at Oswego, 313 Mahar Hall, Department of Anthropology, Oswego, NY 13126, telephone (315) 312–4172, email *alanna.ossa@oswego.edu,* by February 3, 2020. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Cayuga Nation; Oneida Indian Nation (previously listed as the Oneida Nation of New York); and the Onondaga Nation may proceed.

The State University of New York at Oswego is responsible for notifying the Cayuga Nation; Oneida Indian Nation (previously listed as the Oneida Nation of New York); and the Onondaga Nation that this notice has been published.

Dated: November 14, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–28383 Filed 1–2–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029319; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Abbe Museum, Bar Harbor, ME

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Abbe Museum, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Abbe Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Abbe Museum at the address in this notice by February 3, 2020.

ADDRESSES: Jodi C. DeBruyne, Director of Collections & Research, Abbe Museum, P.O. Box 286, Bar Harbor, ME 04609–1717, telephone (207) 288–3519, email *collections@abbemuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Abbe Museum, Bar Harbor, ME, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal

agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

Between 1900 and 2016, 937 unassociated funerary objects were removed from 96 known locations in ME. Locations include the Sawyer Farm site in Ashland in Aroostook County, Eagle Lake site in Eagle Lake in Aroostook County, Harpswell Neck site in Harpswell Neck in Cumberland County, Round Pond site in Bristol in Lincoln County, Waterford site in Waterford in Oxford County, Winterport site in Winterport in Waldo County, and Wells Beach site in Wells in York County. Locations in Hancock County include: Alley Island site in Alley Island, Duck Brook site in Bar Harbor, Shellheap near site in Bar Harbor, Woodbury Park site in Bar Harbor, Salisbury Cove site in Bar Harbor, Sheldrake Island site in Bar Harbor, Blue Hill site in Blue Hill, Red Paint Cemetery site in Blue Hill, Haskell Red Paint Cemetery site in Blue Hill, Parker's Point site in Blue Hill, Bridge's River site in Brooklin, Bucksport site in Bucksport, Molasses Pond site in Eastbrook, Old Red Paint site in Ellsworth, Union River site in Ellsworth, Deeck Place, Union River site in Ellsworth, Ellsworth Falls site in Ellsworth Falls, Smith Farm site in Ellsworth Falls, Wasp Island site in Ellsworth Falls, Burying River at the Burying Island site in Franklin, Butler's Point site in Franklin, Georges Pond site in Franklin, Frenchman Bay site in Frenchman Bay, Nubble Swans Island site in Frenchman Bay, Hog Island site in Frenchman Bay, Gouldsboro site in Gouldsboro, Tranquility Farm site in Gouldsboro, Jones Cove site in Gouldsboro, Taft Point site in Gouldsboro, Sullivan Falls site in Hancock, Isleford site in Islesford, Boynton site in Lamoine, Northeast Harbor site in Northeast Harbor, Mason Site/Cemetery at the Alamoosook Lake site in Orland, Emerson Site/Cemetery at the Alamoosook Lake site in Orland, Narramissic Valley site in Orland, Alamoosook Lake site in Orland, Hartford site in Orland, Johnson Cemetery site in Orland, Orland site in Orland, Red Paint Cemetery site in Orland, Soper's Field site in Orland, Orono Island site in Orono Island, Cooksey Road site in Seal Harbor, Somesville site in Somesville, Dpane's Point site in Sorrento, Ewing-Bragdon site in Sorrento, Hall site in Sorrento, Sorrento site in Sorrento, Gotts Island site in Sullivan, Surry site in Surry, Oak Point site in Trenton, and Ironbound Island site in Winter Harbor. Locations in Kennebec County include: Kennebec River site in Waterville and Lancaster Farm site in Winslow. Locations in Knox County include: Tarr Cemetery site in Union, Georges River Cemetery at the Georges River site in Warren, and the Stevens Cemetary site in Warren. Locations in Penobscot County include: Bangor site in Bangor, Fort Hill site in Bangor, Penobscot River site in Bangor, Kenduskeag River/Stream site in Bangor, Moorehead Cemetery at the Blackman Stream/Penobscot River site in Bradley, Penobscot River site in Bradley, Brewer Cemetery site in Brewer, East Hampden site in East Hampden, Penobscot River site in Eddington, Eddington Bend site in Eddington, Hampden site in Hampden, Piscataquis River site in Howland, Matanawcook River, Matanawcook Island site in Lincoln, Mattawamkeag site in Mattawamkeag, Milford site in Milford, Red Paint Cemetery at the Sunkhaze Stream site in Milford, Indian Island site in Old Town, Hathaway site in Passadumkeag, Penobscot River site in South Brewer, Penobscot River site in Searsport, South Lincoln site in South Lincoln, and Veazie site in Veazie. Locations in Piscataquis County include Katahdin Iron Works site in Brownville and Chase Carry, Munsungun Lake site in Northeast Piscataquis. Locations in Washington County include: Addison site in Addison, Sprague Fall site in Cherryfield, Narraguagus River site in Cherryfield, Machias site in Machias, Machias River site in Machias, Red Beach site in Red Beach, and the Wilson Farm site.

The 937 unassociated funerary objects are one bone awl, one birchbark container, one stone bird stone, one burial soil sample, one metal/copper bead, one stone crescent, one stone effigy, one hematite/ochre sample, one stone mallet, one mica sample, one woven cedar fragment, two stone chisels, two iron oxide concretions, three metal/copper fragments, three stone drills, three stone gorgets, three hematite samples, three stone pestles, three stone scrapers, three stone whetstones, four stone reflakes, five stone battered nodules, five grooved stones, five ground slate rubbing stones, six stone atlatls/bannerstones, six stone pebbles, seven pyrite samples, eight stone adzes/gouges, eight ground stones, eight lucky stones, 10 ground stone rods, 13 stone flakes, 14 ground slate, 15 stone or ceramic pipe/pipe stem fragments, 25 modified stones, 18 stone pendants, 19 stone hammerstone, 24 shells, 37 ocher samples (red and yellow), 42 stone ground slate points, 55 stone abrasives/abraders, 105 stone plummets, 122 stone bifaces, 129 stone gouges, and 211 stone adzes/celts.

Cultural affiliation between these unassociated funerary objects and the Aroostook Band of Micmacs (previously listed as the Aroostook Band of Micmac Indians); Houlton Band of Maliseet Indians; Passamaquoddy Tribe; and the Penobscot Nation (previously listed as the Penobscot Tribe of Maine), hereafter referred to as ''The Tribes,'' is based upon the identification of the above listed sites with the ''Red Paint People,'' who are the direct ancestors of the Wabanaki Peoples, to whom The Tribes belong. This lineage has been determined through multiple lines of evidence. First, the Wabanaki homeland extends throughout the United States and Canada in what is today known as Maine, New England, and the Canadian Maritimes and the Wabanaki have lived uninterrupted on this land for over 12,000 years. Second, the characteristic use of red ochre as a burial practice has continued throughout the generations to the present day. Third, artifact forms and decorations often found in ''Red Paint'' sites are consistent and similar to those found in Wabanaki sites. These include the inclusion of pristine condition tools, perforation, etched decoration, and the use of similar stone materials.

Determinations Made by the Abbe Museum

Officials of the Abbe Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 937 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Jodi C. DeBruyne, Director of Collections & Research, Abbe Museum, P.O. Box 286, Bar Harbor, ME 04609–1717, telephone (207) 288–3519, email *collections@abbemuseum.org,* by

February 3, 2020. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to The Tribes may proceed.

The Abbe Museum is responsible for notifying The Tribes that this notice has been published.

Dated: November 14, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–28377 Filed 1–2–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029318; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Federal Bureau of Investigation, Art Theft Program, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Federal Bureau of Investigation (FBI), in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of a sacred object. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the FBI. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the FBI at the address in this notice by February 3, 2020.

ADDRESSES: Federal Bureau of Investigation, FBI Headquarters, Attn: Supervisory Special Agent Timothy Carpenter, Art Theft Program, 935 Pennsylvania Avenue NW, Washington, DC 20535, telephone (954) 931–3670, email *artifacts@ic.fbi.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Federal Bureau of Investigation, Washington, DC, that meets the definition of a sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

At an unknown date, one sacred object was acquired and transported to the East Coast, where it remained part of a private collection of Native American antiquities, art, and cultural heritage. In the spring of 2018, this item was seized by the FBI as part of a criminal investigation. The item is a ceremonial object that had been misidentified by the collector as a ''mask.''

Through multiple consultations with representatives of the Pueblo of Zuni and the expertise of archeologists from museums and universities in the region, the item is culturally affiliated with the Pueblo of Zuni in New Mexico.

Determinations Made by the Federal Bureau of Investigation

Officials of the Federal Bureau of Investigation have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Zuni Tribe of the Zuni Reservation, New Mexico.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Federal Bureau of Investigation, FBI Headquarters, Attn: Supervisory Special Agent Timothy Carpenter, Art Theft Program, 935 Pennsylvania Avenue NW, Washington, DC 20535, telephone (954) 931–3670, email *artifacts@ic.fbi.gov,* by February 3, 2020. After that date, if no additional claimants have come forward, transfer of control of the sacred object to the Zuni Tribe of the Zuni Reservation, New Mexico may proceed.

The Federal Bureau of Investigation is responsible for notifying the Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: November 14, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–28382 Filed 1–2–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029316; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Federal Bureau of Investigation, Art Theft Program, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Federal Bureau of Investigation (FBI), in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the FBI. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the FBI at the address in this notice by February 3, 2020.

ADDRESSES: Federal Bureau of Investigation, FBI Headquarters, Attn: Supervisory Special Agent Timothy Carpenter, Art Theft Program, 935 Pennsylvania Avenue NW, Washington, DC 20535, telephone (954) 931–3670, email *artifacts@ic.fbi.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Federal Bureau of Investigation, Washington, DC, that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

At an unknown date, 31 sacred objects were acquired and transported to the East Coast, where they remained part of a private collection of Native American antiquities, art, and cultural heritage. In the spring of 2018, these items were seized by the FBI as part of a criminal investigation. The 31 items are ceremonial objects that had been misidentified by the collector as ''masks.''

Through multiple consultations with representatives of the Hopi Tribe of Arizona and the expertise of regional archeologists, these items are culturally affiliated with the Hopi Tribe of Arizona.

Determinations Made by the Federal Bureau of Investigation

Officials of the Federal Bureau of Investigation have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the 31 cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Hopi Tribe of Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Federal Bureau of Investigation, FBI Headquarters, Attn: Supervisory Special Agent Timothy Carpenter, Art Theft Program, 935 Pennsylvania Avenue NW, Washington, DC 20535, telephone (954) 931–3670, email *artifacts@ic.fbi.gov,* by February 3, 2020. After that date, if no additional claimants have come forward, transfer of control of the sacred objects to the Hopi Tribe of Arizona may proceed.

The Federal Bureau of Investigation is responsible for notifying the Hopi Tribe of Arizona that this notice has been published.

Dated: November 14, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–28380 Filed 1–2–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029321; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Office of the State Archaeologist Bioarchaeology Program, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Office of the State Archaeologist, Bioarchaeology Program, previously listed as the Office of the State Archaeologist, Burials Program, has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Office of the State Archaeologist Bioarchaeology Program. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Office of the State Archaeologist, Bioarchaeology Program at the address in this notice by February 3, 2020.

ADDRESSES: Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 S Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Office of the State Archaeologist Bioarchaeology Program, Iowa City, IA. The human remains were removed from Mississippi County, MO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Office of the State Archaeologist Bioarchaeology Program professional staff in consultation with representatives of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Citizen Potawatomi Nation, Oklahoma; Flandreau Santee Sioux Tribe of South Dakota; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Kaw Nation, Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Miami Tribe of Oklahoma; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Peoria Tribe of Indians of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; The Osage Nation (previously listed as the Osage Tribe); The Quapaw Tribe of Indians; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Community, Minnesota; Winnebago Tribe of Nebraska; and the Yankton Sioux Tribe of South Dakota (hereafter referred to as ''The Tribes'').

History and Description of the Remains

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location in Mississippi County, MO. The human remains were reportedly kept in an unspecified museum before ending up in the

possession of a private collector in Fort Madison, IA. After the collector's death in 1994, the human remains were transferred to the Office of the State Archaeologist Bioarchaeology Program. A young adult female is represented by the cranial and dental remains (Burial Project 785). No known individuals were identified. No associated funerary objects are present.

The biological affinity of this individual is uncertain, due to the presence of both Native American and European morphological traits. Cranial metric analysis was confounded by congenital malformation. However, given the presence of some Native American traits, this individual is considered to be Native American.

At an unknown date, human remains representing, at minimum, three individuals were removed from an unknown location in Charleston, Mississippi County, MO. At some point, the human remains came into the possession of a private collector in Fort Madison, IA. After the collector's death in 1994, the human remains were transferred to the Office of the State Archaeologist Bioarchaeology Program. A middle-aged female, an adult male, and a male of indeterminate age are represented by the cranial and dental remains (Burial Project 785). No known individuals were identified. No associated funerary objects are present.

Cranial morphology and cranial metrics analysis indicate these individuals were Native American.

The general locations from which all above mentioned individuals were removed is considered the ancestral homeland of The Osage Nation.

Determinations Made by the Office of the State Archaeologist Bioarchaeology Program

Officials of the Office of the State Archaeologist Bioarchaeology Program have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Osage Nation (previously listed as the Osage Tribe).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 S Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu,* by February 3, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Osage Nation (previously listed as the Osage Tribe) may proceed.

The Office of the State Archaeologist Bioarchaeology Program is responsible for notifying The Tribes that this notice has been published.

Dated: November 14, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–28381 Filed 1–2–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029373; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: San Diego Museum of Man, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The San Diego Museum of Man, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the San Diego Museum of Man. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the San Diego Museum of Man at the address in this notice by February 3, 2020.

ADDRESSES: Kara Vetter, Director of Cultural Resources, 1350 El Prado, Balboa Park San Diego, CA 92101, telephone (619) 239–2001 Ext. 44, email *kvetter@museumofman.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the San Diego Museum of Man, San Diego, CA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1927 and 1942, 66 cultural items were removed from site W–253 in San Diego County, CA. Malcolm J. Rogers, on behalf of the San Diego Museum of Man, B.E. McCown, and M.F. Farmer, independent archeologists, conducted excavations in the vicinity of San Vicente Dam. Six cremations in the possession of B.E. McCown, and notated as such by M.F. Farmer are related to 66 funerary objects. The human remains are not under the control of the San Diego Museum of Man. The 66 unassociated funerary objects are 55 projectile points, nine ceramic undecorated body sherds, one chipped stone—biface, and one ceramic—other.

Sometime in the 1930's, 46 cultural items were removed from site W–262 in San Diego County, CA. Malcolm J. Rogers, on behalf of the San Diego Museum of Man, conducted excavations in the vicinity of Cuyamaca Peak. This site was notated as a cremation, to which 46 funerary objects are likely related. The human remains are not under the control of the San Diego Museum of Man. The 46 unassociated funerary objects are eight projectile points, six chipped stones—biface, one ceramic decorated body sherd, three ceramic undecorated body sherds, two ceramic decorated rim sherds, eight ceramic undecorated rim sherds, one ceramic—other, one chipped stone unworked flake, one chipped stone—core, three chipped stone—core tool, one mano, two groundstone—other, one historic metal, two scrapers, one hammerstone, one unmodified shell, one chopper, two utilized flakes, and one ecofact.

Sometime prior to 1950, eight cultural items were removed from site W–264 in San Diego County, CA. Malcolm J.

Rogers, on behalf of the San Diego Museum of Man, conducted excavations in the vicinity of Witch Creek. An uncollected cinerary urn was discovered when a local rancher was digging out stumps. Based upon their relation to notated cremations, these eight items are unassociated funerary objects. The human remains are not under the control of the San Diego Museum of Man. The eight unassociated funerary objects are four projectile points, one ceramic decorated body sherd, one ceramic undecorated body sherd, one ceramic undecorated mixed sherd, and one chipped stone scraper.

Sometime prior to 1950, 29 cultural items were removed from sites SDI–35 and SDI–38 or W–291 and W–291A in San Diego County, CA. Malcolm J. Rogers, on behalf of the San Diego Museum of Man, conducted excavations in the vicinity Old Town. Subsequently, during the Inland Highway Bridge project, six burials were discovered by City Engineers in the area of these excavations. Based upon their relation to the notated burials, these 29 items are unassociated funerary objects. The human remains are not under the control of the San Diego Museum of Man. The 29 unassociated funerary objects are one projectile point, six ceramic undecorated body sherds, two ceramic undecorated rim sherds, one ceramic undecorated mixed sherd, two chipped stone unworked flakes, one utilized flake, one core tool, five manos, one groundstone—other, two ecofacts, four historic ceramics, two historic metals, and one historic glass.

At a date most likely prior to 1950, 16 cultural items were removed from site W–313 in San Diego County, CA. Malcolm J. Rogers, on behalf of the San Diego Museum of Man, conducted excavations in the vicinity Oakzanita Peak. Pot sherds were notated as at one time containing a cremation. Based upon their relation to the notated evidence of a cremation, these 16 items are unassociated funerary objects. The human remains are not under the control of the San Diego Museum of Man. The 16 unassociated funerary objects are one ceramic undecorated rim sherd, one lot of ceramic decorated rim sherds, one lot of ceramic undecorated body sherds, three ceramic decorated body sherds, four additional ceramic pieces, two unmodified shells, two manos, one lot of chipped stone unworked flakes, and one ecofact.

Based upon cultural resources archival research, geographic, ethnographic, and archeological information, and oral history, as well as consultation with the Kumeyaay Nation, these unassociated funerary objects have been culturally affiliated with the Kumeyaay.

Determinations Made by the San Diego Museum of Man

Officials of the San Diego Museum of Man have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 165 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California); Ewiiaapaayp Band of Kumeyaay Indians, California; Iipay Nation of Santa Ysabel, California (previously listed as the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation); Inaja Band of Diegueno Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Indian Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Sycuan Band of the Kumeyaay Nation (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Kara Vetter, Director of Cultural Resources, 1350 El Prado, Balboa Park San Diego, CA 92101, telephone (619) 239–2001 Ext. 44, email *kvetter@museumofman.org,* by February 3, 2020. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to The Tribes may proceed.

The San Diego Museum of Man is responsible for notifying The Tribes that this notice has been published.

Dated: November 22, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–28378 Filed 1–2–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029315; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum (Burke Museum), in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of a sacred object. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Burke Museum. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the Burke Museum at the address in this notice by February 3, 2020.

ADDRESSES: Holly Barker, Curator for Oceanic and Asian Culture, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 616–6891, email *hmbarker@uw.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA, that meets the

definition of a sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural item. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

In 1997, one cultural item was brought to the Burke Museum by Rocky Ka'iouliokahihikolo'Ehu Jensen. This cultural item is a Lama wood sculptural carving of Laka, the founder of the discipline of Hula.

Information provided during consultation between the Burke Museum and Nā Lei O Manu'akepa representatives confirmed that the Laka sculpture is a necessary component which holds a very important role in the sacred Kuahu Ceremony of traditional Hula practitioners. The sculpture is seen as a manifestation of the Hula patron, Laka, to which traditional Hula practitioners conduct ceremonies and rituals with offerings for inspiration, guidance and protection in their present day cultural work and practices.

Determinations Made by the Thomas Burke Memorial Washington State Museum

Officials of the Thomas Burke Memorial Washington State Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American Hawaiian religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and Nā Lei O Manu'akepa, a Native Hawaiian organization.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Holly Barker, Curator for Oceanic and Asian Culture, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 616–6891, email *hmbarker@uw.edu,* by February 3, 2020. After that date, if no additional claimants have come forward, transfer of control of the sacred object to Nā Lei O Manu'akepa, a Native Hawaiian organization, may proceed.

The Thomas Burke Memorial Washington State Museum is responsible for notifying Nā Lei O Manu'akepa that this notice has been published.

Dated: November 14, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–28379 Filed 1–2–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029320; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: School of Social Science and Global Studies, University of Southern Mississippi, Hattiesburg, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Southern Mississippi has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the University of Southern Mississippi. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University of Southern Mississippi at the address in this notice by February 3, 2020.

ADDRESSES: Marie Elaine Danforth, Professor, School of Social Science and Global Studies, University of Southern Mississippi, 118 College Drive #5108, Hattiesburg, MS 39406–0001, telephone (601) 266–5629, email *m.danforth@usm.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the School of Social Science and Global Studies, University of Southern Mississippi, Hattiesburg, MS. The human remains were removed from Hancock, Jackson, and Harrison Counties, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Southern Mississippi professional staff in consultation with representatives of the Mississippi Band of Choctaw Indians and The Choctaw Nation of Oklahoma (hereafter, they are referred to as ''The Consulted Tribes'').

The Absentee-Shawnee Tribe of Indians of Oklahoma; Caddo Nation of Oklahoma; Catawba Indian Nation (aka Catawba Tribe of South Carolina); Cherokee Nation; Chitimacha Tribe of Louisiana; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians; Kialegee Tribal Town; Miccosukee Tribe of Indians; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); Shawnee Tribe; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; Tunica-Biloxi Indian Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma, were invited to consult but did not participate (hereafter, they are referred to as ''The Invited Tribes'').

History and Description of the Remains

In 2014, human remains representing, at minimum, two individuals were removed from the Bass site (22HR636) in Hancock County, MS. The human remains were found on the surface by archeologist Brad Lieb (The Chickasaw Nation) in a chance visit to the site after utility work had taken place. The proximal femora appear to belong to two adult probable males and the temporal, humerus, ulna, axial elements, tibia,

patella, talus, and hand elements are all adult. No known individuals were identified. No associated funerary objects are present.

In 1991, human remains representing, at minimum, two individuals were removed from the Cedarland site (22HA506) in Hancock County, MS. The human remains were initially discovered in the back dirt pile of a pothunter in 1991, by H. Edwin Jackson, a university archeologist conducting an excavation at the site. They were rediscovered while moving collections in early 2019. The proximal ulnar belongs to an adult male and an adult of undetermined sex and the humerus, femur, tibia, rib, and hand bones are all adult. No known individuals were identified. No associated funerary objects are present.

The remainder of the human remains listed in this notice were recently transferred from the Mississippi Department of Archives and History to the University of Southern Mississippi. Most of these human remains originally formed part of the collections of an amateur archeologist, who conducted numerous excavations on the Mississippi Coast from the 1960s through 1990s. No artifacts were reported to have been recovered in association with these human remains.

At an unknown date, human remains representing, at minimum, two individuals were removed from the Godsey site (22HR591) in MS. The human remains, which include a proximal femur and metacarpal, are adult. The gracile appearance of the femur suggests it belongs to a female. In addition, a third individual, represented by a single infant vertebral body, who was initially recovered in the early 1990s during excavation at the site by the University of Southern Mississippi, was rediscovered while moving archeological collections in early 2019. No known individuals were identified. No associated funerary objects are present.

In 1969–70, human remains representing, at minimum, one individual were removed from the Harvey site (22HR534) in MS. The human remains from at least one adult individual of indeterminate sex were recovered as part of an ossuary excavation conducted by the amateur archeologist. The human remains include small portions of a cranium, as well as the proximal sections of an ulna and femur. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from Fugan Ridge Road in Jackson County, MS, when a grader cut into a shell midden. The skeletal elements were recovered by a collector, who gave them to the amateur archeologist. Fragments of femur and humerus appear to represent two adult individuals, one probable female and one probable male. No known individuals were identified. No associated funerary objects are present.

In the 1970's, human remains representing, at minimum, three individuals were removed from Bang's Lake on the east side of Bayou Cumbest in Jackson County, MS. The human remains represent at least three individuals, as indicated by three left zygomatics and three right proximal femora. Except for some vault fragments that might be juvenile, the skeletal elements appear to be adult. The human remains include a nearly complete female adult cranial vault, as well as numerous other fragments of cranium. The axial elements include several vertebrae, parts of scapulae, and portions of ossa coxae. Long bones comprise the largest portion of the assemblage. Four foot bones are also present. Elements belonging to both sexes appear to be present. No known individuals were identified. No associated funerary objects are present.

In 1969, human remains representing, at minimum, one individual were removed from the area of the J&N Railroad Bridge in Gautier, Jackson County, MS. A single cranium was recovered and given to the amateur archeologist. The vault of the cranium is relatively complete, but the facial region is missing. It appears to belong to a young to middle adult male and exhibits cranial modification. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from Bayou Cumbest I in Jackson County, MS; no site number is found for such a name. The human remains belong to a single adult, and are likely a male based on robusticity. They include some cranial vault fragments, as well as several long bone portions. Part of the ischium and one hand phalanx are also present. No known individuals were identified. No associated funerary objects are present.

In 1968, human remains representing, at minimum, three individuals were removed from Taneksanya (22JA504) in Jackson County, MS. Some of the human remains were exposed when an oak tree was overturned. Others were recovered after the site had been looted. While the minimum number of individuals is based on the presence of three right fragments of occipital base, the actual number of individuals present could be larger. At least one individual was male, based on cranial and pelvic morphology. A range of robusticity among the other skeletal elements was noted. No juveniles were present. The skeletal elements recovered include one posterior portion of cranium along with a number of other vault fragments from other individuals. Several parts of maxillae and mandibles were seen, as were axial portions, including sternum, vertebrae and ribs. Several ossa coxae fragments were present, including one that belonged to a male. Diaphyseal fragments from all of the long bones were present, as were several and foot bones. No known individuals were identified. No associated funerary objects are present.

In the 1970's, human remains representing, at minimum, four individuals were removed from Deer Island (22HR500) in Harrison County, MS. A cranium and ulna were found on the beach to the south of the village-midden site; both likely belonged to adult males, but not necessarily the same individual, since they were reportedly not in immediate proximity. Additional adult and juvenile human remains were recovered in a trench excavation on the east side of the site. According to notes accompanying the human remains, these additional individuals included a female in a flexed position with an infant in her arms. However, the presence of a female cannot be confirmed by the elements present, which include a small maxilla fragment and several loose teeth; portions of the diaphysis of femur, radius, and ulna; and a hand phalanx. The juvenile elements include three vault portions of differing thickness and color, a complete right ilium consistent with an infant aged 3–4 months old, and a vertebral arch consistent with a child aged 3–4 years old. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, five individuals, were removed from Greenwood Island (22JA516) in Jackson County, MS. The human remains had been recovered primarily as isolated elements on the beach after eroding out of a nearby Early Woodland site. While the minimum number of individuals is based on portions of left mandible present, the actual number of individuals present could be larger. The human remains include several cranial fragments, mostly from the vault, and several loose teeth. Axial elements include left and right ilium and ischium fragments that are consistent with a single adult male, portions of scapula

and clavicle, and a number of vertebrae. The appendicular elements include a number of upper limb long bones and several hand bones; femoral fragments from at least four different individuals; a pair of patellae; tibial and fibular portions; and numerous foot bones. Several of the elements appeared to be male based on robusticity, but at least one femur and humerus have epiphyses suggesting a female. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from Deer Island (22HR500), Taneksanya (22JA504), and Greenwood Island (22JA516), MS. While in storage, the human remains from these three sites were commingled before being given to MDAH, and thus had to be analyzed as a single group. While the minimum number of human remains is based on the presence of right left tali and two left humeral midshafts, the actual number of individuals present could be larger. Skeletal elements include a number of vault fragments, portions of scapula and ischium, several ribs and vertebrae, segments of all upper limb long bones, proximal femur, portions of fibula, and numerous foot bones. Based on the range of size and robusticity seen, both males and females are present. Recent fusion of two metacarpal epiphyses are consistent with one individual being an adolescent. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the University of Southern Mississippi

Officials of the University of Southern Mississippi have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 28 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity can be reasonably traced between the Native American human remains and The Consulted Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human should submit a written request with information in support of the request to Marie Elaine Danforth, Professor, School of Social Science and Global Studies, University of Southern Mississippi, 118 College Drive #5108, Hattiesburg, MS 39406–0001, telephone (601) 266–5629, email *m.danforth@usm.edu,* by February 3, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Consulted Tribes may proceed.

The University of Southern Mississippi is responsible for notifying The Consulted Tribes and The Invited Tribes that this notice has been published.

Dated: November 14, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–28376 Filed 1–2–20; 8:45 am]

BILLING CODE 4312–52–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2018–123; CP2019–69; MC2020–81 and CP2020–80; MC2020–82 and CP2020–81; MC2020–83 and CP2020–82]

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:* January 6, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 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).:* CP2018–123; *Filing Title:* USPS Notice of Amendment to Priority Mail Express & Priority Mail Contract 55, Filed Under Seal; *Filing Acceptance Date:* December 23, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* January 6, 2020.

2. *Docket No(s).:* CP2019–69; *Filing Title:* USPS Notice of Amendment to Parcel Select & Parcel Return Service Contract 7, Filed Under Seal; *Filing Acceptance Date:* December 23, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* January 6, 2020.

3. *Docket No(s).:* MC2020–81 and CP2020–80; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 4 to Competitive

[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).

Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 23, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* January 6, 2020.

4. *Docket No(s).:* MC2020–82 and CP2020–81; *Filing Title:* USPS Request to Add Priority Mail Contract 587 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 23, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* January 6, 2020.

5. *Docket No(s).:* MC2020–83 and CP2020–82; *Filing Title:* USPS Request to Add Parcel Select and Parcel Return Service Contract 10 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 23, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* January 6, 2020.

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2019–28353 Filed 1–2–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 27, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 111 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–85, CP2020–84.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–28406 Filed 1–2–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Parcel Select and Parcel Return Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 26, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Parcel Select and Parcel Return Service Contract 10 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–83, CP2020–82.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–28404 Filed 1–2–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Parcel Select Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 27, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Parcel Select Contract 37 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–84, CP2020–83.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–28405 Filed 1–2–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 23, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 587 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–82, CP2020–81.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–28403 Filed 1–2–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* January 3, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 23, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 4 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–81, CP2020–80.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–28402 Filed 1–2–20; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87868; File No. SR–BOX–2019–37]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing of a Proposed Rule Change in Connection With the Proposed Commencement of Operations of Boston Security Token Exchange LLC as a Facility of the Exchange

December 30, 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 December 18, 2019, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is submitting this Proposed Rule Change to the Commission in connection with the proposed commencement of operations of BSTX. In this Proposed Rule Change, the proposed Amended and Restated Limited Liability Company Agreement of the Company dated January 29, 2019 (the ''LLC Agreement''), is attached as Exhibit 5A hereto [sic]. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is submitting this Proposed Rule Change to the Commission in connection with the proposed commencement of operations of BSTX. The Exchange proposes to establish BSTX as a facility, as that term is defined in Section 3(a)(2) of the Act,[3] of the Exchange.[4] BSTX would be a facility of the Exchange that will operate a market for the trading of digital security tokens. BSTX would operate a fully automated, price/time priority execution system for the trading of ''security tokens,'' which would be equity securities that meet BSTX listing standards and for which ancillary records of ownership would be able to be created and maintained using distributed ledger (or ''blockchain'') technology. The security tokens would qualify as NMS stocks pursuant to Regulation NMS.[5] All transactions in security tokens would clear and settle in accordance with the rules, policies and procedures of registered clearing agencies.

BSTX is owned jointly by BOX Digital, a Delaware limited liability company and a subsidiary of BOX Holdings Group LLC, and tZERO Group, Inc., a Delaware corporation and an affiliate of *Overstock.com*, Inc. BSTX is an affiliate of the Exchange and, when it commences trading operations, will be subject to regulatory oversight by the Exchange. In addition, the Exchange will enter into a facility agreement with BSTX (the ''Facility Agreement'') pursuant to which the Exchange will regulate the Company as a facility of the Exchange. The Exchange's powers and authority under the Facility Agreement ensure that the Exchange has full regulatory control over BSTX, which is designed to prevent any owner of BSTX from exercising undue influence over the regulated activities of the Company. The Exchange will also provide certain business services to the Company such as providing human resources and office technology support pursuant to an administrative services agreement between the Exchange and BSTX.

The LLC Agreement is the source of governance and operating authority for the Company and, therefore, functions in a similar manner as articles of incorporation and bylaws would function for a corporation. The Exchange is submitting a separate filing to establish rules relating to trading on BSTX.[6] The Exchange is also submitting another separate filing to introduce structural changes to the Exchange to accommodate regulation of BSTX in addition to the Exchange's existing facility. With the addition of BSTX as an Exchange facility, BSTX Participants[7] will have the same representation, rights and responsibilities as Participants on the Exchange's other facility.

The Exchange currently operates BOX Options Market LLC (''BOX Options''), which is a facility of the Exchange, as that term is defined in Section 3(a)(2) of the Act. The proposed LLC Agreement provisions are generally the same as the provisions of the BOX Options LLC Agreement or, where indicated herein, are the same as provisions of the BOX Holdings LLC Agreement.[8] Currently, BOX Holdings has nine separate, unaffiliated owners. BOX Holdings owns 100% of BOX Options so BOX Holdings is essentially the alter ego of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78c(a)(2).

[4] Approval for the BSTX facility is being sought by the Exchange through a separate proposed rule change with the Commission. *See* Securities Exchange Act Release No. 87287 October 11, 2019, 84 FR 56022 October 18, 2019 (''BSTX Rulebook Proposal''). The Exchange also currently plans to separately propose certain other rule changes with the Commission designed to provide sufficient flexibility for there to be multiple facilities under the Exchange's regulatory authority. Currently, there is only one facility of the Exchange, BOX Options Market LLC.

[5] 17 CFR 242.600 through 613.

[6] *See* BSTX Rulebook Proposal.

[7] A BSTX Participant is a firm or organization that is registered with the Exchange pursuant to Exchange Rules for the purposes of participating on the BSTX Market as an order flow provider or market maker. *See* Section 1.1, LLC Agreement.

[8] The Exchange notes, as further described in the Proposed Rule Change, that certain provisions of the BOX Holdings LLC and BOX Options LLC Agreements are not included in the LLC Agreement because they are not applicable. For example, certain provisions in the BOX Holdings LLC Agreement that are related to different ownership classes are not present in the LLC Agreement because BSTX has only one class of ownership. *See, e.g.,* Sections 4.1, 4.4, 4.13 and 7 of the BOX Holding LLC Agreement.

BOX Options. By contrast, the Company has two separate, unaffiliated owners, BOX Digital and tZERO, each of which owns 50% of the Company. Ownership diverges for BOX Options directly above BOX Holdings in its ownership structure and ownership diverges for the Company directly above the Company in its ownership structure. Therefore, as discussed below, when comparing various provisions in the LLC Agreement, some provisions are more appropriately compared with the BOX Holdings LLC Agreement, particularly with respect to ownership issues. The Exchange believes that governance consistent with established provisions that have already received Commission approval harmonizes rules and practices across the Exchange's facilities, which may foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, consistent with Section 6(b)(5) of the Act.[9]

Structure of the Company

In the discussion below, the Exchange describes provisions in the LLC Agreement related to the structure of the Company, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

As a limited liability company, ownership of the Company is represented by limited liability company interests in the Company (''Interests''). The duly admitted holders of Interests are referred to as the members of the Company (''Members''). The Interests represent equity interests in the Company and entitle the duly admitted holders thereof to participate in the Company's allocations and distributions. Currently, BOX Digital and tZERO are the Company's Members and each own 50% of the Interests.

BOX Digital is a subsidiary of BOX Holdings and an affiliate of the Exchange and, therefore, the Company will be an affiliate of the Exchange. BOX Holdings owns 98% of BOX Digital and 2% of BOX Digital is held by Lisa Fall. BOX Holdings already owns one subsidiary that is an existing facility of the Exchange. The existing facility—BOX Options—operates a market for trading option contracts on U.S. equities. BOX Holdings is the parent company for both BOX Digital and BOX Options. BOX Holdings has nine separate, unaffiliated owners, including MX US 2, Inc., a wholly owned, indirect subsidiary of TMX Group Limited (''TMX''), which holds 41.33% of the outstanding units of BOX Holdings and IB Exchange Corp., which holds 22.01% of the outstanding units of BOX Holdings. The other seven owners of BOX Holdings, Citadel Securities Principal Investments LLC, Citigroup Financial Products Inc., UBS Americas Inc., CSFB Next Fund Inc., LabMorgan Corp., Wolverine Trading, LLC and Aragon Solutions Ltd, each hold less than 17% of the outstanding units of BOX Holdings.

Medici Ventures, Inc. (''Medici''), a Delaware corporation, owns 80.07% of the outstanding shares of tZERO, Joseph Cammarata holds 7.53% and each of the following owns less than 3% of the outstanding shares of tZERO: Todd Tobacco, Newer Ventures LLC, Schalk Steyn, Raj Karkara, Alec Wilkins, Dohi Ang, Brian Capuano, Trent Larson, Eric Fish, Kristen Anne Bagley, Kirstie Dougherty, SpeedRoute Technologies Inc., Tommy McSherry, Rob Collucci, John Gilchrist, John Paul DeVito, Jimmy Ambrose, Jason Heckler, Max Melmed, Alex Vlastakis, Olalekan Abebefe, Samson Arubuola, Ryan Mitchell, Zachary Wilezol, Anthony Bove, Ralph Daiuto, Rob Christiansen, Amanda Gervase, Derek Tobacco, Steve Bailey and Dinosaur Financial. *Overstock.com, Inc.* (''Overstock''), a publicly held corporation organized under the laws of the state of Delaware, owns 100% of the outstanding shares of Medici. Therefore, both tZERO and the Company are affiliates of Overstock.

Pursuant to Section 7.4(g)(ii) of the LLC Agreement, any Controlling Person[10] is required to become a party to the LLC Agreement and abide by its provisions, to the same extent and as if they were members. Related Persons that are otherwise Controlling Persons are not required to become parties to the LLC Agreement if they are only under common control of an upstream owner but are not in the upstream ownership chain above a Company owner because they will not have the ability to exert any control over the Company. BOX Holdings, Medici and Overstock are indirect owners of the Company. Overstock owns 100% of Medici Ventures, Inc., which owns more than 80% of tZERO Group, Inc., which owns 50% of BSTX. Medici and Overstock will be required to become parties to the Company's LLC Agreement by executing an instrument of accession substantially in the form attached hereto as Exhibit 5B [sic] and abide by its provisions, to the same extent and as if they were members, because they are Controlling Persons of the Company. Similarly, BOX Digital, BOX Holdings, MX US 2, Inc., MX US 1, Inc., Bourse de Montreal Inc. and TMX Group Limited will also each be required to become parties to the LLC Agreement by executing an instrument of accession and abide by its provisions to the same extent and as if they were members because they are Controlling Persons of the Company. TMX Group Limited owns 100% of Bourse de Montreal Inc., which owns 100% of MX US 1, Inc., which owns 100% of MX US 2, Inc., which owns more than 40% of BOX Holdings. BOX Holdings owns 98% of BOX Digital, which owns 50% of BSTX.

Any BSTX Participant that holds, directly or indirectly, more than 20% of the Company will have its voting power capped at 20% pursuant to Section 7.4(h) of the LLC Agreement, a limitation designed to prevent a market participant from exerting undue influence on an Exchange facility.[11] Related Persons will be grouped together when applying these limits. The Exchange believes the proposed

[9] 15 U.S.C. 78f(b)(5).

[10] A ''Controlling Person'' is defined as ''a Person who, alone or together with any Related Persons of such Person, holds a Controlling Interest in a Member.'' *See* Section 7.4(g)(v)(B), LLC Agreement. A ''Controlling Interest'' is defined as ''the direct or indirect ownership of 25% or more of the total voting power of all equity securities of a Member (other than voting rights solely with respect to matters affecting the rights, preferences, or privileges of a particular class of equity securities), by any Person, alone or together with any Related Persons of such Person.'' *See* Section 7.4(g)(v)(A), LLC Agreement. A ''Related Person'' is defined as ''with respect to any Person: (A) Any Affiliate of such Person; (B) any other Person with which such first Person has any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of Interests; (C) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b–7 under the [Act]) or director of such Person and, in the case of a Person that is a partnership or limited liability company, any general partner, managing member or manager of such Person, as applicable; (D) in the case of any BSTX Participant who is at the same time a broker-dealer, any Person that is associated with the BSTX Participant (as determined using the definition of ''person associated with a member'' as defined under Section 3(a)(21) of the [Act]); (E) in the case of a Person that is a natural person and a BSTX Participant, any broker or dealer that is also a BSTX Participant with which such Person is associated; (F) in the case of a Person that is a natural person, any relative or spouse of such Person, or any relative of such spouse who has the same home as such Person or who is a director or officer of the Exchange or any of its parents or subsidiaries; (G) in the case of a Person that is an executive officer (as defined under Rule 3b–7 under the [Act]) or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable; and (H) in the case of a Person that is a general partner, managing member or manager of a partnership or limited liability company, such partnership or limited liability company, as applicable.''

[11] LLC Agreement Section 7.4(h) is based on Section 7.4(h) of the BOX Holdings LLC Agreement.

voting cap provision is consistent with the Act, including Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.[12] In particular, the voting cap is designed to minimize the ability of a BSTX Participant to improperly interfere with or restrict the ability of the Exchange to effectively carry out its regulatory oversight responsibilities under the Act.

The SEC will be required to be notified if an owner exceeds 5%, 10% or 15% ownership in the Company pursuant to Section 7.4(e) of the LLC Agreement.[13] Further, rule filings are required when an owner crosses above 20% or any subsequent 5% increment, pursuant to Section 7.4(f) of the LLC Agreement.[14] Related Persons are grouped together when applying these limits. These are the same provisions as are contained in the BOX Holdings LLC Agreement. The Exchange believes the proposed notification provisions are consistent with the Act, including Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act. In particular, SEC notification of ownership interests exceeding certain percentage thresholds can help improve the Commission's ability to effectively monitor and surveil for potential undue influence and control over the operation of the Exchange.

The Exchange notes that existing ownership limits applicable to owners of the Exchange, the entity that will have regulatory oversight of BSTX, are not changing.[15] The Exchange believes the existing ownership limits will help to ensure the independence of the Exchange's regulatory oversight of BSTX and facilitate the ability of the Exchange to carry out its regulatory responsibilities and operate in a manner consistent with the Act, and are appropriate and consistent with the requirements of the Act, particularly with Section 6(b)(1), which requires, in part, an exchange be so organized and have the capacity to carry out the purposes of the Act.[16]

The Company does not have the same ownership as BOX Options or BOX Holdings; therefore, the Members of the Company differ from those of BOX Options and BOX Holdings. The Exchange believes that the structure of the Company will promote just and equitable principles of trade, and, in general, protect investors and the public interest, consistent with Section 6(b)(5) of the Act.[17]

Term and Termination

In the discussion below, the Exchange describes provisions in the LLC Agreement related to the term and termination of the Company, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

Pursuant to Section 2.3 of the LLC Agreement, the Company will have a perpetual legal existence unless it is sooner dissolved as a result of an event specified in the Delaware Limited Liability Company Act, as amended and in effect from time to time, and any successor statute (the ''LLC Act'') or by agreement of the Members. The term is the same as the provision in the BOX Options LLC Agreement,[18] but also provides that the Company can be dissolved by agreement of the Members. In addition, Section 10.1 of the LLC Agreement provides that the Company shall be dissolved upon (i) the election to dissolve the Company made by the Board pursuant to Section 4.4(b)(v) of the LLC Agreement; (ii) the entry of a decree of judicial dissolution under § 18–802 of the LLC Act; (iii) the resignation, expulsion, bankruptcy or dissolution of the last remaining Member, or the occurrence of any other event which terminates the continued membership of the last remaining Member in the Company, unless the business of the Company is continued without dissolution in accordance with the LLC Act; or (iv) the occurrence of any other event that causes the dissolution of a limited liability company under the LLC Act unless the Company is continued without dissolution in accordance with the LLC Act. The dissolution events are generally the same as those in the BOX Options LLC Agreement;[19] however, the Company may also be dissolved by the affirmative vote of Members holding a majority of all of the then outstanding Percentage Interests[20] (excluding any Percentage Interests held directly or indirectly by tZERO and its Affiliates from the numerator and the denominator for such calculation) taken within 180 calendar days after the occurrence of any ''Trigger Event'' as such term is defined in the IP License and Services Agreement entered into by and between tZERO and the Company (the ''LSA'') and described in more detail below.[21] The Exchange believes that the addition of such dissolution events will promote just and equitable principles of trade, and, in general, protect investors and the public interest, consistent with Section 6(b)(5) of the Act.[22]

Upon the occurrence of any of the events set forth in Section 10.1(a) of the LLC Agreement, the Company will be dissolved and terminated in accordance with the provisions of Article 10 of the LLC Agreement.

Governance of the Company

In the discussion below, the Exchange describes provisions in the LLC Agreement related to the governance of the Company, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

Section 4.1 of the LLC Agreement establishes a board of directors of the Company (the ''Board of Directors'' or the ''Board'') to manage the development, operations, business and affairs of the Company without the need for any approval of the Members or any other person. Section 4.10 of the LLC Agreement provides that, except and only to the extent expressly provided for in the LLC Agreement and the Related Agreements and as delegated by the Board of Directors to committees of the Board of Directors or to duly appointed Officers or agents of the Company, neither a Member nor any other Person other than the Board of Directors shall

[12] 15 U.S.C. 78f(b)(1).

[13] LLC Agreement Section 7.4(e) is based on Section 7.4(e) of the BOX Holdings LLC Agreement.

[14] LLC Agreement Section 7.4(f) is based on Section 7.4(f) of the BOX Holdings LLC Agreement.

[15] *See* Securities Exchange Act Release No. 34–66871 (April 27, 2012) 77 FR 26323 (May 3, 2012) (Order granting approval of BOX Exchange).

[16] 15 U.S.C. 78f(b)(1).

[17] 15 U.S.C. 78f(b)(5).

[18] *See* BOX Options LLC Agreement Section 2.3.

[19] *See* BOX Options LLC Agreement Section 8.1.

[20] ''Percentage Interests'' are defined as ''with respect to a Member, such Member's Interests expressed as a percentage of all outstanding Interests.'' *See* Section 1.1, LLC Agreement.

[21] The LSA defines a ''Trigger Event'' as meaning ''any of the following events: (a) A material breach by tZERO of any of its obligations under this LSA (being either a single event which is a material breach or a series of breaches which taken together are a material breach) which material breach or failure is not cured by tZERO within 90 days after Company gives written notice of such breach or failure to tZERO hereunder, except for Critical Functions in which case the cure period shall be 10 days; (b) any bankruptcy, reorganization, debt arrangement, or other case or proceeding under any bankruptcy or insolvency Law or any non-frivolous dissolution or liquidation proceedings commenced by or against tZERO; and if such case or proceeding is not commenced by tZERO, it is acquiesced by tZERO in or remains undismissed for 30 days; (c) tZERO ceasing active operation of its business without a successor or discontinuing any of the Base Services; (d) tZERO becomes judicially declared insolvent or admits in writing its inability to pay its debts as they become due; or (e) tZERO applies for or consents to the appointment of a trustee, receiver or other custodian for tZERO, or makes a general assignment for the benefit of its creditors.''

[22] 15 U.S.C. 78f(b)(5).

be an agent of Company or have any right, power or authority to transact any business in the name of the Company or to act for or on behalf of or to bind the Company. Section 4.12(a) of the LLC Agreement provides that each of the Members and the Directors, Officers, employees and agents of the Company (a) shall give due regard to the preservation of the independence of the self-regulatory function of the Exchange and to its obligations to investors and the general public and shall not take any actions which would interfere with the effectuation of decisions by the board of directors of the Exchange relating to its regulatory functions (including disciplinary matters) or which would interfere with the Exchange's ability to carry out its responsibilities under the Act; (b) comply with the federal securities laws and the rules and regulations promulgated thereunder; and (c) cooperate with the Exchange pursuant to its regulatory authority and with the SEC. Section 3.2 of the LLC Agreement provides that the Exchange will (a) act as the SEC-approved SRO for the BSTX Market, (b) have regulatory responsibility for the activities of the BSTX Market and provide regulatory services to the Company pursuant to the Facility Agreement. These are the same provisions that are contained in the BOX Options LLC Agreement.[23] These provisions ensure that the Exchange has full regulatory control over BSTX, which is designed to prevent any owner of BSTX from exercising undue influence over the regulated activities of the Company.

Section 4.1 of the LLC Agreement provides that the Board will consist of six (6) directors (each a ''Director''), comprised of two (2) Directors appointed by BOX Digital, two (2) Directors appointed by tZERO (together with the BOX Digital Directors, each a ''Member Director''), one (1) Director (the ''Independent Director'') appointed by the unanimous vote of all of the then serving Member Directors, and one (1) non-voting Director (the ''Regulatory Director'') appointed by the Exchange. As long as the Company is a facility of the Exchange pursuant to Section 3(a)(2) of the Act, the Exchange will have the right to appoint a Regulatory Director to serve as a Director. The Regulatory Director must be a member of the senior management of the regulation staff of the Exchange. By comparison, the board of directors of BOX Options is the same as BOX Holdings because it is a wholly-owned subsidiary of BOX Holdings. The remaining structure of the Board of Directors for the Company differs from that of BOX Holdings because the ownership of the Company differs from that of BOX Holdings, which has no owners with 50% or greater ownership. The Company has an Independent Director to avoid either Member from controlling or creating deadlock on the Board. However, the presence of a Regulatory Director selected by the Exchange on the Board is identical to the longstanding practice at the Exchange's other facility, BOX Options. The Exchange believes that the proposed board structure, and in particular, the inclusion of the proposed Independent Director and Regulatory Director, will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling and 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, protect investors and the public interest, consistent with Section 6(b)(5) of the Act.[24] Further, the Exchange believes that inclusion of the Regulatory Director on the BSTX Board would also be consistent with Section 6(b)(1) of the Act. This is because the Regulatory Director is required to be someone who is a member of the senior management of the regulation staff of the Exchange and is therefore a person who is knowledgeable of the rules of the Exchange and the regulations applicable to it and, in turn, is someone who would be well positioned to help ensure the Exchange, including in the operation of any facilities, continues to be so organized and has the capacity to carry out the purposes of the Act, including to prevent inequitable and unfair practices.

Section 4.3 of the LLC Agreement provides that the Board will meet as often as it deems necessary, but at least four (4) times per year.[25] Meetings of the Board or any committee thereof may be conducted in person or by telephone or in any other manner agreed to by the Board or, respectively, by the members of a committee. Any of the Directors or the Exchange may call a meeting of the Board upon fourteen (14) calendar days prior written notice. In any case where the convening of a meeting of Directors is a matter of urgency, notice of the meeting may be given not less than forty-eight (48) hours before the meeting is to be held. No notice of a meeting shall be necessary when all Directors are present. The attendance of at least a majority of all the Directors shall constitute a quorum for purposes of any meeting of the Board. Except as may otherwise be provided by the LLC Agreement, each of the Directors will be entitled to one vote on any action to be taken by the Board, except that the Regulatory Director shall not vote on any action to be taken by the Board or any committee, the CEO (if a Director) shall not be entitled to vote on matters relating to the CEO's powers, compensation or performance, and a Director shall not be entitled to vote on any matter pertaining to that Director's removal from office. A Director may vote the votes allocated to another Director (or group of Directors) pursuant to a written proxy. Except as otherwise provided by the LLC Agreement, any action to be taken by the Board shall be considered effective only if approved by at least a majority of the votes entitled to be voted on that action. Meetings of the Board may be attended by other representatives of the Members, the Exchange and other persons related to the Company as the Board may approve. Any action required or permitted to be taken at a meeting of the Board or any committee thereof may be taken without a meeting if written consents, setting forth the action so taken, are executed by the members of the Board or committee, as the case may be, representing the minimum number of votes that would be necessary to authorize or to take that action at a meeting at which all members of the Board or committee, as the case may be, permitted to vote were present and voted. The Board will determine procedures relating to the recording of minutes of its meetings. The Exchange believes that the proposed board structure will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling and 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, protect investors and the public interest, consistent with Section 6(b)(5) of the Act.[26]

Pursuant to Section 4.4 of the LLC Agreement, no action with respect to any major action (each a ''Major Action''), will be effective unless approved by the Board, including the affirmative vote of all then serving Member Directors, in each case acting at

[23] *See* BOX Options LLC Agreement Sections 4.1, 4.10, 4.12, and 3.2.

[24] 15 U.S.C. 78f(b)(5).

[25] LLC Agreement Section 4.3 is based on Section 4.3 of the BOX Options LLC Agreement.

[26] 15 U.S.C. 78f(b)(5).

a meeting. A vacancy on the Board will not prevent approval of a Major Action. No other Member votes are required for a Major Action. For purposes of the LLC Agreement, ''Major Action'' means any of the following: (i) A merger or consolidation of the Company with any other entity or the sale by the Company of any material portion of its assets; (ii) entry by the Company into any line of business other than the business outlined in Article 3 of the LLC Agreement; (iii) conversion of the Company from a Delaware limited liability company into any other type of entity; (iv) except as expressly contemplated by the LLC Agreement and then existing Related Agreements, entering into any agreement, commitment, or transaction with any Member or any of its Affiliates other than transactions or agreements upon commercially reasonable terms that are no less favorable to the Company than the Company would obtain in a comparable arms-length transaction or agreement with a third party; (v) to the fullest extent permitted by law, taking any action (except pursuant to a vote of the Members pursuant to Section 10.1(a)(ii) of the LLC Agreement to effect the voluntary, or which would precipitate an involuntary, dissolution or winding up of the Company; (vi) operating the BSTX Market utilizing any other software system, other than the BSTX trading system, except as otherwise provided in the LSA or to the extent otherwise required by the Exchange to fulfill its regulatory functions or responsibilities or to oversee the BSTX Market as determined by the board of the Exchange; (vii) operating the BSTX Market utilizing any other regulatory services provider other than the Exchange, except as otherwise provided in the Facility Agreement or to the extent otherwise required by the Exchange to fulfill its regulatory functions or responsibilities or to oversee the BSTX Market as determined by the board of the Exchange; (viii) entering into any partnership, joint venture or other similar joint business undertaking; (ix) making any fundamental change in the market structure of the Company from that contemplated by the Members as of the date of the LLC Agreement, except to the extent otherwise required by the Exchange to fulfill its regulatory functions or responsibilities or to oversee the BSTX Market as determined by the board of the Exchange; (x) issuing any new Interests pursuant to Section 7.6 of the LLC Agreement or admitting additional or substitute Members pursuant to Section 7.1(b); (xi) altering the provisions for Board membership applicable to any Member, except to the extent otherwise required by the Exchange to fulfill its regulatory functions or responsibilities or to oversee the BSTX Market as determined by the board of the Exchange; and (xii) altering the definition of or requirements for approving a Major Action, except to the extent otherwise required by the Exchange to fulfill its regulatory functions or responsibilities or to oversee the BSTX Market as determined by the Board of the Exchange. The Major Action events are generally the same as those in the BOX Options LLC Agreement and BOX Holdings LLC Agreement [27] with the exception of deletions to references to BOX Options affiliates and owners and to include cross references to other provisions of the LLC Agreement; however, the Company's LLC Agreement also provides that a Major Action also includes provisions (viii), (x), and (xi) as described above. The Exchange believes that such events should be deemed Major Actions for commercial fairness. The Exchange believes that deeming the above referenced events as Major Actions will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling and 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, protect investors and the public interest, consistent with Section 6(b)(5) of the Act.[28]

Pursuant to Section 4.1(b) of the LLC Agreement, a Member Director may be removed by the Member entitled to appoint that Member Director, with or without cause. The Independent Director may be removed by a majority vote of the then serving Member Directors, with or without cause. Any Member Director or Independent Director may be removed by the Board if the Board determines, in good faith, that the Director has violated any provision of the LLC Agreement or any federal or state securities law or that such action is necessary or appropriate in the public interest or for the protection of investors. A Director shall not participate in any vote regarding that Director's removal. The Company shall promptly notify the Exchange in writing of the commencement or cessation of service of a Member Director or Independent Director. Like BOX Options, Directors may be removed by the Board for reasons related to protection of investors and the owners with rights to appoint a Member Director have power to remove and replace their respective designees. The removal provisions for the Company's Independent Director differ from those of BOX Options and BOX Holdings because those entities do not have an Independent Director. The Exchange believes that the proposed removal provisions will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling and 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, protect investors and the public interest, consistent with Section 6(b)(5) of the Act. Further, the Exchange believes that the ability for Member Directors and Independent Directors to be removed from the Board in the circumstances described above would be consistent with Section 6(b)(1) of the Act.[29] This is because removal of such Directors who have violated the LLC Agreement or federal or state laws would help ensure that the Exchange, including in its operation of facilities, is so organized and has the capacity to be able to carry out the purposes of the Act, including the prevention of inequitable and unfair practices.

Section 4.1(c) of the LLC Agreement provides that, if a vacancy is created on the Board as a result of the death, disability, retirement, resignation or removal (with or without cause) of a Member Director or otherwise there shall exist or occur any vacancy on the Board, the Member whose designee created the vacancy will fill that vacancy by written notice to the Company. Each Member shall promptly fill vacancies on the Board, and the Board shall consider the advisability of taking further action until the vacancies are filled. The vacancy provisions are not in the BOX Options LLC Agreement; however, the Exchange believes that providing for contingencies in the event of a vacancy are important to avoid business disruption and, therefore, this proposal will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities,

[27] *See* Section 4.4 of the BOX Options LLC Agreement and Section 4.4 of the BOX Holdings LLC Agreement.

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78f(b)(1).

consistent with Section 6(b)(5) of the Act.[30] Further, the Exchange believes that filling Director vacancies, as described above, would provide a predetermined and transparent manner for filling Director vacancies and therefore help avoid business disruptions at BSTX. The Exchange believes that this, in turn, would be consistent with Section 6(b)(1) of the Act [31] because it would help ensure that the Exchange, including in the operation of facilities, is so organized and has the capacity to be able carry out the purposes of the Act, including to remove impediments to and perfect the mechanisms of a national market system for securities.

Section 4.1(d) of the LLC Agreement provides that the Regulatory Director may be removed (a) by the Exchange, with or without cause, (b) by the Board if the Board determines, in good faith, that the Regulatory Director has violated any provision of the LLC Agreement or any federal or state securities law, or (c) by the Board if the Board determines, in good faith, that the Regulatory Director does not meet the requirements of a Regulatory Director as set forth in the LLC Agreement. If the Regulatory Director ceases to serve for any reason, the Exchange shall appoint a new Regulatory Director in accordance with the requirements in the LLC Agreement. The removal provisions in the Company's LLC Agreement are substantially the same as those in the BOX Options LLC Agreement.[32]

Section 4.12(b) of the LLC Agreement provides that the Company and its Members shall comply with the federal securities laws and the rules and regulations promulgated thereunder and shall cooperate with the SEC and the Exchange pursuant to and to the extent of their respective regulatory authority. The Directors, Officers, employees and agents of the Company, by virtue of their acceptance of such position, shall comply with the federal securities laws and the rules and regulations promulgated thereunder and shall be deemed to agree to cooperate with the SEC and the Exchange in respect of the SEC's oversight responsibilities regarding the Exchange, and the Company shall take reasonable steps necessary to cause its Directors, Officers, employees and agents to so cooperate. These provisions in the LLC Agreement are the same as those in the BOX Options LLC Agreement and BOX Holdings LLC Agreement.[33]

Section 3.2(a)(ii) of the LLC Agreement provides that the Exchange shall receive notice of planned or proposed changes to the Company (but not including changes relating solely to one or more of the following: Marketing, administrative matters, personnel matters, social or team building events, meetings of the Members, communication with the Members, finance, location and timing of Board meetings, market research, real property, equipment, furnishings, personal property, intellectual property, insurance, contracts unrelated to the operation of the BSTX Market and de minimis items (''Non-Market Matters'') or the BSTX Market (including, but not limited to the BSTX trading system) which will require an affirmative approval by the Exchange prior to implementation, not inconsistent with the LLC Agreement. Planned changes include, without limitation: (a) Planned or proposed changes to the BSTX trading system; (b) the sale by the Company of any material portion of its assets; (c) taking any action to effect a voluntary, or which would precipitate an involuntary, dissolution or winding up of the Company; or (d) obtaining regulatory services from a regulatory services provider other than the Exchange. Procedures for requesting and approving changes shall be established by the mutual agreement of the Company and the Exchange. These provisions in the LLC Agreement are the same as those in the BOX Options LLC Agreement.[34]

Section 3.2(a)(iii) of the LLC Agreement provides that in the event that the Exchange, in its sole discretion, determines that the proposed or planned changes to the Company or the BSTX Market (including, but not limited to, the BSTX trading system) set forth in Section 3.2(a)(ii) of the LLC Agreement could cause a Regulatory Deficiency if implemented, the Exchange may direct the Company, subject to approval of the Exchange Board of Directors, to modify the proposal as necessary to ensure that it does not cause a Regulatory Deficiency. The Company will not implement the proposed change until it, and any required modifications, are approved by the Exchange Board of Directors. The costs of modifications undertaken shall be paid by the Company. These provisions in the LLC Agreement are the same as those in the BOX Options LLC Agreement.[35] These provisions ensure the Exchange maintains full regulatory control and authority over BSTX while it operates as a facility of the Exchange. The Exchange believes this provision helps guarantee the Exchange's ability to fulfill its regulatory responsibilities and operate in a manner consistent with the Act, in particular with Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.[36]

Section 3.2(a)(iv) of the LLC Agreement provides that in the event that the Exchange, in its sole discretion, determines that a Regulatory Deficiency exists or is planned, the Exchange may direct the Company, subject to approval of the Exchange board of directors, to undertake such modifications to the Company (but not to include Non-Market Matters) or the BSTX Market (including, but not limited to, the BSTX trading system), as are necessary or appropriate to eliminate or prevent the Regulatory Deficiency and allow the Exchange to perform and fulfill its regulatory responsibilities under the Act.[37] The costs and modifications undertaken shall be paid by the Company. These provisions in the LLC Agreement are substantially the same as those in the BOX Options LLC Agreement, with the exception of a reference to an agreement that is not applicable to the Company.[38]

Regulatory Funds

Pursuant to Section 9 of the Facility Agreement, the Company will agree that the Exchange has the right to receive all fees, fines and disgorgements imposed upon BSTX Participants with respect to the Company's trading system (''Regulatory Funds'') and all market data fees, tape and other revenues (''Non-regulatory Funds''). All Regulatory Funds and Non-regulatory Funds collected by the Exchange with

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78f(b)(1).

[32] *See* Section 4.1(d) of the BOX Options LLC Agreement.

[33] *See* Section 4.12(b) of the BOX Options LLC Agreement and Section 4.12(b) of the BOX Holdings LLC Agreement.

[34] *See* Section 3.2(a)(ii) of the BOX Options LLC Agreement.

[35] *See* Section 3.2(a)(iii) of the BOX Options LLC Agreement.

[36] 15 U.S.C. 78f(b)(1).

[37] As discussed above, the Exchange will appoint a Regulatory Director who may, among other things, serve as a Director of any regulatory committee(s). Such individual will also have insight and access to important information related to the Company; for example, while the Regulatory Director may not serve as a Director on Board committees other than authorized regulatory committees, the Regulatory Director nevertheless shall (A) have the right to attend all meetings of the Board and committees thereof; (B) receive equivalent notice of meetings as other Directors; and (C) receive a copy of the meeting materials provided to other Directors, including agendas, action items and minutes for all meetings. (*See* LLC Agreement § 4.2(c).)

[38] *See* Section 3.2(a)(iv) of the BOX Options LLC Agreement.

respect to the Company may be used by the Exchange for regulatory purposes, which will be determined in the sole discretion of the Exchange. To the extent the Company incurs costs and expenses for regulatory purposes, the Exchange may reimburse the Company using Regulatory Funds. In the event the Exchange, at any time, determines that it does not hold sufficient funds to meet all regulatory purposes, the Company will reimburse the Exchange for any such additional costs and expenses. All Regulatory Funds collected by the Exchange will be retained by the Exchange and not transferred to the Company. Non-regulatory funds collected by the Exchange may be transferred to the Company after the Exchange makes adequate provision for all regulatory purposes. These provisions ensure that the Exchange has full control over BSTX with respect to its regulated functions and is designed to prevent any owner of BSTX from exercising undue influence over the regulated activities of the Company.

Capital Contributions and Distributions

In the discussion below, the Exchange describes provisions in the LLC Agreement related to capital contributions and distributions by the Company, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

Pursuant to Section 6.1 of the LLC Agreement, the Members have contributed to the Company initial capital contributions which are reflected on the books and records of the Company. No interest will be paid on any capital contribution to the Company. No Member will have any personal liability for the repayment of the capital contribution of any Member, and no Member will have any obligation to fund any deficit in its Capital Account. Each Member waived any right to partition the property of the Company or to commence an action seeking dissolution of the Company under the LLC Act. These provisions are substantially the same as those in the BOX Holdings LLC Agreement.[39]

Under Section 6.2 of the LLC Agreement, the Board, in its sole discretion, will determine the capital needs of the Company. If at any time the Board determines that additional capital is required in the interests of the Company, additional working capital shall be raised in such manner as determined by a vote of the Board, including the affirmative vote of at least one Member Director appointed by each Member, but the Board will not have the power to require the Members to make any additional capital contributions. These provisions in the LLC Agreement are substantially the same as those in the BOX Options LLC Agreement, with the exception of the requirement for at least one Member Director appointed by each Member to affirmatively vote on the manner to raise additional working capital.[40] The Exchange believes that this added provision exists for purposes of commercial fairness and is necessary due to the ownership structure of the Company and that it will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, consistent with Section 6(b)(5) of the Act.[41]

Pursuant to Section 8.1 of the LLC Agreement, if at any time and from time to time the Board determines that the Company has cash that is not required for the operations of the Company, the payment of liabilities or expenses of the Company, or the setting aside of reserves to meet the anticipated cash needs of the Company (''Distributable Cash''), then the Company shall make cash distributions to its Members in the following manner and priority: First, the Company shall make tax distributions (''Tax Distributions'') to the Members to cover each Member's estimated income tax for that period (or in the event that Distributable Cash is less than the total of all such Tax Amounts, the Company shall distribute the Distributable Cash in proportion to such Tax Amounts). All tax distributions to a Member will be treated as advances against any subsequent distributions to be made to that Member. Subsequent distributions made to the Member shall be adjusted so that when aggregated with all prior distributions to the Member pursuant to those provisions, and with all prior Tax Distributions to the Member, the amount distributed will be equal, as nearly as possible, to the aggregate amount that would have been distributable to that Member pursuant to the LLC Agreement if the LLC Agreement contained no provision for Tax Distributions; second, when, as and if declared by the Board, the Company shall make cash distributions to each of the Members pro rata in accordance with that Member's respective Interests, expressed as a percentage of all outstanding Interests (''Percentage Interest''). Since the Company does not have the same ownership as BOX Options, the distribution provisions in the LLC Agreement differ from the BOX Options LLC Agreement and BOX Holdings LLC Agreement. These provisions relate to tax and accounting rules to which the Company is subject, due to its ownership structure. As such, these provisions are standard or not novel for a similarly situated commercial business registered as a limited liability company under the laws of the state of Delaware.

Section 8.2 of the LLC Agreement provides that the Company, and the Board on behalf of the Company, shall not make a distribution to any Member on account of its Interest in the Company if, and to the extent, such distribution would violate the LLC Act or other applicable law. This provision in the LLC Agreement is the same as the provision in the BOX Options LLC Agreement and BOX Holdings LLC Agreement.[42]

Section 9.1 of the LLC Agreement provides that all profits, losses and credits of the Company (for both accounting and tax purposes) for each fiscal year shall be allocated to the Members from time to time (but no less often than once annually and before making any distribution to the Members) pro rata among the Members based on that Member's respective Percentage Interest, subject to limitations, offsets, chargebacks, deductions and revaluations. Since the Company does not have the same ownership as BOX Options, the allocation of profits and losses provisions in the LLC Agreement differ from the BOX Options LLC Agreement. These provisions relate to tax and accounting rules to which the Company is subject, due to its ownership structure. As such, these provisions are standard or not novel for a similarly situated commercial business registered as a limited liability company under the laws of the state of Delaware.

Under Section 9.9 of the LLC Agreement, any profits or losses resulting from a liquidation, merger or consolidation of the Company, the sale of substantially all the assets of the Company in one or a series of related transactions, or any similar event (and, if necessary, specific items of gross income, gain, loss or deduction incurred by the Company in the fiscal year of the transaction(s)) shall be allocated among the Members so that after those allocations and the allocations required

[39] *See* Section 6.1 of the BOX Holdings LLC Agreement.

[40] *See* Section 6.2 of the BOX Options LLC Agreement.

[41] 15 U.S.C. 78f(b)(5).

[42] *See* Section 7.1 of the BOX Options LLC Agreement and Section 8.2 of the BOX Holdings LLC Agreement.

pursuant to capital account adjustments, and immediately before the making of any liquidating distributions to the Members, the Members' Capital Accounts equal, as nearly as possible, the amounts of the respective distributions to which they are entitled in a winding up. Since the Company does not have the same ownership as BOX Options, the termination and special allocation provisions in the LLC Agreement differ from the BOX Options LLC Agreement. These provisions relate to tax and accounting rules to which the Company is subject, due to its ownership structure. As such, these provisions are standard or not novel for a similarly situated commercial business registered as a limited liability company under the laws of the state of Delaware.

Pursuant to Section 10.2 of the LLC Agreement, the assets of the Company in winding up shall be applied or distributed as follows: First, to creditors of the Company, including Members who are creditors, to the extent otherwise permitted by law, whether by payment or the making of reasonable provisions for the payment thereof, and including any contingent, conditional and unmatured liabilities of the Company, taking into account the relative priorities thereof; second, to the Members and former Members in satisfaction of liabilities under the LLC Act for distributions to those Members and former Members; and third, to the Members in proportion to their respective Percentage Interests. A reasonable reserve for contingent, conditional and unmatured liabilities in connection with the winding up of the business of the Company shall be retained by the Company until the winding up is completed or the reserve is otherwise deemed no longer necessary by the liquidator. These provisions are substantially the same as those in the BOX Holdings LLC Agreement, with the exception of certain provisions that were not included in the LLC Agreement because they are inapplicable to the Company's structure.[43]

In the discussion below, the Exchange describes provisions in the LLC Agreement related to intellectual property of the Company, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

Pursuant to Section 3.2(b) of the LLC Agreement, tZERO will provide to the Company the intellectual property license and services necessary to operate the BSTX trading system as set forth in the LSA and will make the necessary arrangements with any applicable third parties which will permit the Company to be an authorized sublicensee of any required third-party software necessary for Trading on the BSTX trading system. The intellectual property provisions in the LLC Agreement are similar to those in the BOX Options LLC Agreement, but contain certain differences reflecting the license and services of tZERO pursuant to the LSA rather than the software and technology provided by MX pursuant to the TOSA in connection with the BOX Options LLC Agreement.[44]

Under the LSA, tZERO will provide the Company and the Exchange with a perpetual, fully paid up, royalty-free license to use its intellectual property comprising the BSTX trading system. In addition, the LSA provides that tZERO will provide services to the Company, including services related to implementing, administering, maintaining, supporting, hosting, developing, testing and securing the trading system. These services to be provided by tZERO relate to the specialized trading system operated by BSTX and are separate from any administrative or office technology services provided to BSTX by the Exchange discussed above.

Pursuant to the LSA, tZERO retains its ownership of the BSTX trading system and tZERO's trademarks and service marks; provided, however, that the Company will own deliverables, enhancements and other technology that are developed or created by tZERO for the Company, including any related documentation and intellectual property.

Non-Competition

In the discussion below, the Exchange describes provisions in the LLC Agreement related to non-competition, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

Section 16.1 of the LLC Agreement provides that, for so long as it holds, directly or indirectly, a combined Percentage Interest in the Company of five percent (5%) or more, a Member will not hold or invest in more than five percent (5%) of, or participate in the creation and/or operation of, any U.S. based market for the secondary trading of security tokens or in any person engaged in the creation and/or operation of any U.S. based market for the secondary trading of security tokens. The non-competition provision is substantially the same as the non-competition provision in the BOX Holdings LLC Agreement.[45]

Changes in Ownership of the Company

In the discussion below, the Exchange describes provisions in the LLC Agreement related to changes in ownership of the Company, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

Section 7.1(a) of the LLC Agreement provides that no person will directly or indirectly, whether voluntarily, involuntarily, by operation of law or otherwise, dispose of, sell, alienate, assign, exchange, participate, subparticipate, encumber, or otherwise transfer in any manner (each, a ''Transfer'') its Interests unless prior to that Transfer the transferee is approved by a vote of the Board. To be eligible for Board approval, a proposed transferee must be of high professional and financial standing, be able to carry out its duties as a Member hereunder, if admitted as a Member, and be under no regulatory or governmental bar or disqualification. Notwithstanding the foregoing, registration as a broker-dealer or self-regulatory organization is not required to be eligible for Board approval. However, the following will not be included in the definition of ''Transfer'' transfers among Members, transfers to any person directly or indirectly owning, controlling or holding with power to vote all of the outstanding voting securities of and equity or beneficial interests in that Member, or transfers to any person that is a wholly owned Affiliate of a transferring Member. A holder of Interests will provide prior written notice to the Exchange of any proposed Transfer. Any Transfer which violates the Transfer restrictions in the LLC Agreement will be void and ineffectual and will not bind or be recognized by the Company.

Section 7.1(b) of the LLC Agreement establishes that a person will be admitted to the Company as an additional or substitute Member of the Company only upon that person's execution of a counterpart of the LLC Agreement to evidence its written acceptance of the terms and provisions

[43] *See* Section 10.2 of the BOX Holdings LLC Agreement.

[44] *See* Article 13 of the BOX Options LLC Agreement.

[45] *See* Section 16.1 of the BOX Holdings LLC Agreement.

of the LLC Agreement, and acceptance thereof by resolution of the Board, which acceptance may be given or withheld in the sole discretion of the Board; if that person is a transferee, its agreement in writing to its assumption of the obligations under the LLC Agreement of its assignor, and acceptance thereof by resolution of the Board; if that person is a transferee, a determination by the Board that the Transfer was permitted by the LLC Agreement; and approval of the Board. Whether or not a transferee who acquired any Interests has accepted in writing the terms and provisions of the LLC Agreement and assumed in writing the obligations hereunder of its predecessor in interest, that transferee will be deemed, by the acquisition of those Interests, to have agreed to be subject to and bound by all the obligations of the LLC Agreement with the same effect and to the same extent as any predecessor in interest of that transferee. Pursuant to Section 7.1(c) of the LLC Agreement, all costs incurred by the Company in connection with the admission of a substituted Member will be paid by the transferor Member. The transfer provisions in Section 7.1 of the LLC Agreement are not contained in the BOX Options LLC Agreement; however, the Exchange notes that the provisions of Section 7.1 are substantially based on provisions in the BOX Holdings Group LLC Agreement.[46]

Pursuant to Section 7.2 of the LLC Agreement, the Company will have a right of first refusal if a Member desires to Transfer its Interests, and obtains a bona fide offer therefor from a third-party transferee. Further, Section 7.3 of the LLC Agreement provides that, if the Company does not elect to exercise its right of first refusal, the non-transferring Member(s) next have a right of first refusal. The provisions in Sections 7.2 and 7.3 of the LLC Agreement are substantially based on provisions found in the BOX Holdings LLC Agreement, with certain variations to account for differences in corporate and ownership structure.[47] The Exchange believes that such variations are necessary to ensure proper application of the LLC Agreement's provisions to the Company, which serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, consistent with Section 6(b)(5) of the Act.[48] Further, the Exchange believes that the variations in Sections 7.2 and 7.3 of the LLC Agreement that tailor those provisions to the corporate and ownership structure of BSTX would help ensure that persons subject to the Exchange's jurisdiction are able to navigate and more readily understand the LLC Agreement. The Exchange believes that this, in turn, would be consistent with Section 6(b)(1) of the Act[49] because it would help ensure that the Exchange, including in its operation of facilities, is so organized and has the capacity to be able to carry out the purposes of the Act.

Pursuant to Section 7.4 of the LLC Agreement, no Transfer may occur if the Transfer could cause a termination of the Company, could cause a termination of the Company's status as a partnership or cause the Company to be treated as a publicly traded partnership for federal income tax purposes, is prohibited by any securities laws, is prohibited by the LLC Agreement, or is to a minor or incompetent person.

Section 7.4(e) of the LLC Agreement requires that a Member will provide the Company with written notice fourteen (14) days prior, and the Company will provide the Commission and the Exchange with written notice ten (10) days prior, to the closing date of any acquisition that results in that Member's Percentage Interest, alone or together with any related person of that Member, meeting or crossing the threshold level of 5% or the successive 5% Percentage Interest levels of 10% and 15%. Any person that, either alone or together with its related persons, owns, directly or indirectly, of record or beneficially, five percent (5%) or more of the then outstanding Interests will, immediately upon acquiring knowledge of its ownership of five percent (5%) or more of the then outstanding Interests, give the Company written notice of that ownership. In addition, Section 7.4(f) of the LLC Agreement provides that any Transfer that results in the acquisition and holding by any person, alone or together with its related persons, of an aggregate Percentage Interest level which meets or crosses the threshold level of 20% or any successive 5% Percentage Interest level (*i.e.,* 25%, 30%, etc.) is also subject to the rule filing process pursuant to Section 19 of the Act.

Under Section 7.4(g) of the LLC Agreement, unless it does not directly or indirectly hold any interest in a Member, a Controlling Person (as defined below) of a Member will be required to execute an amendment to the LLC Agreement upon establishing a Controlling Interest (as defined below) in any Member that, alone or together with any related persons of that Member, holds a Percentage Interest in the Company equal to or greater than 20%. This amendment will be substantially in the form of the instrument of accession attached as Exhibit 5B hereto [sic] and provide that the Controlling Person will agree to become a party to the LLC Agreement and to abide by all of its provisions, to the same extent and as if they were members. These amendments to the LLC Agreement will be subject to the rule filing process pursuant to Section 19 of the Act. The rights and privileges, including all voting rights, of the Member in whom a Controlling Interest is held, directly or indirectly, under the LLC Agreement and the LLC Act will be suspended until the amendment has become effective pursuant to Section 19 of the Act or the Controlling Person no longer holds, directly or indirectly, a Controlling Interest in the Member.[50] As a result, any new Member or other direct or indirect owner of an equity interest in BSTX, whether by transfer of such equity interest from an existing owner or otherwise, will be subject to the same requirements as all other Members, namely that it will be required to execute an instrument of accession to the LLC Agreement and be subject to the rule filing process if the new Member holds, directly or indirectly, a Controlling Interest in BSTX.

In accordance with Section 7.4(h) of the LLC Agreement, if a Member, or any related person of that Member, is approved by the Exchange as a BSTX Participant pursuant to the Exchange Rules, and that Member's Percentage Interest is greater than 20%, alone or together with any Related Person of that Member, the voting rights of the Member and its appointed Member Directors will be limited to 20%; provided, however, that the Member's full Percentage Interest will be counted for quorum purposes and the portion greater than 20% will be voted by the person presiding over quorum and vote matters in the same proportion as the Interests held by the other Members are voted. The Exchange notes that Section 7.4 of the Company's LLC Agreement is identical in substance to provisions of the BOX Holdings LLC Agreement.[51]

In addition to the provisions discussed above, Section 5 of the LLC Agreement includes provisions that relate to changes in ownership of the Company. Because BOX Options is

[46] *See* Section 7.1 of the BOX Holdings LLC Agreement.

[47] *See* Sections 7.2 and 7.3 of the BOX Holdings LLC Agreement.

[48] 15 U.S.C. 78f(b)(5).

[49] 15 U.S.C. 78f(b)(1).

[50] *See supra* note 10.

[51] *See* Section 7.4 of the BOX Holdings LLC Agreement.

wholly-owned by BOX Holdings, the LLC Agreement differs from the BOX Options LLC Agreement. Under Section 5.5 of the LLC Agreement, a Member will cease to be a Member of the Company upon the Bankruptcy or the involuntary dissolution of that Member. Further, Section 5.8 of the LLC Agreement allows the Board, by unanimous vote and after appropriate notice and opportunity for hearing, to suspend or terminate a Member's voting privileges or membership in the Company for three potential reasons: (i) In the event the Board determines in good faith that such Member is subject to a ''statutory disqualification,'' as defined in Section 3(a)(39) of the Act; (ii) in the event the Board determines in good faith that such Member has violated a material provision of this Agreement, or any federal or state securities law; or (iii) in the event the Board determines in good faith that such action is necessary or appropriate in the public interest or for the protection of investors. The Exchange believes that limiting the ability to participate in the Company for Members who may act in contravention of legal or ethical standards may promote just and equitable principles of trade, and, in general, protects investors and the public interest, consistent with Section 6(b)(5) of the Act.[52] Further, the Exchange believes that the ability to suspend or terminate a Member's voting privileges or membership in the Company as described above would be consistent with Section 6(b)(1) of the Act.[53] This is because such measures in respect of Members who act in contravention of legal or ethical standards would help ensure that the Exchange, including in its operation of facilities, is so organized and has the capacity to be able to carry out the purposes of the Act, including the prevention of inequitable and unfair practices.

Finally, the Exchange notes that Section 18.1 of the Company's LLC Agreement provides that amendments to the LLC Agreement must be approved by the Board, including one Member Director appointed by each of BOX Digital and tZERO, as the sole members of the Company, and any amendment of a provision specific to a Member or the Exchange requires the consent of that party. In addition, the Company shall provide prompt notice to the Exchange of any amendment, modification, waiver or supplement to this Agreement formally presented to the Board for approval and the Exchange shall review each such amendment, modification, waiver or supplement and, if such amendment is required, under Section 19 of the Act and the rules promulgated thereunder, to be filed with, or filed with and approved by, the SEC before such amendment may be effective, then such amendment shall not be effective until filed with, or filed with and approved by, the SEC, as the case may be.[54] These provisions are similar to provisions in the BOX Holdings LLC Agreement but differ in details related to the different ownership structure of the Company.[55]

Regulation of the Company

In the discussion below, the Exchange describes provisions in the LLC Agreement related to regulation of the Company, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

Generally, Section 3.2 of the LLC Agreement, which is identical in substance to a provision in the BOX Options LLC Agreement, provides that the Exchange has authority to act as the SRO for the Company, will provide the regulatory framework for the BSTX Market and will have regulatory responsibility for the activities of the BSTX Market.[56] In addition, the Exchange will provide regulatory services to the Company pursuant to the Facility Agreement. Nothing in the LLC Agreement shall be construed to prevent the Exchange from allowing the Company to perform activities that support the regulatory framework for the BSTX Market, subject to oversight by the Exchange. This provision ensures that the Exchange has full regulatory control over BSTX, which is designed to prevent any owner of BSTX from exercising undue influence over the regulated activities of the Company.

Section 15 of the LLC Agreement deals with how the Company will govern the handling of confidential information, as it relates to the securities regulations and otherwise. All of the provisions in Section 15 of the LLC Agreement are substantively similar to provisions in the BOX Options LLC Agreement, except where noted below.[57] Under Sections 15.1 and 15.2(a) of the LLC Agreement, subject to certain exceptions set forth below, no Member will make any public disclosures concerning the LLC Agreement without the prior approval of the Company. Each Member and the Exchange may only use confidential information of the Company in connection with the activities contemplated by the LLC Agreement and other written agreements and pursuant to the Act and the rules and regulations thereunder. Furthermore, Section 15.4 of the LLC Agreement provides that representatives of the parties will meet to institute confidentiality procedures and discuss confidentiality and disclosure issues.

Pursuant to Section 15.2(b) of the LLC Agreement, each of the Members and the Exchange may disclose confidential information of the Company only to its respective directors, officers, employees and agents who have a reasonable need to know the information. Also, such individuals may disclose confidential information of the Company to the extent required by applicable securities or other laws, a court or securities regulators, including the Commission and the Exchange.

Section 15.3 of the LLC Agreement requires that each Member and the Exchange will hold all non-public information concerning the other Members or the Exchange in strict confidence, unless disclosure to an applicable regulatory authority is necessary or appropriate or unless compelled to disclose by judicial or administrative process or required by law. If a Member or the Exchange is compelled to disclose any Member Information in connection with any necessary regulatory approval or by judicial or administrative process, it will promptly notify the disclosing party to allow the disclosing party to seek a protective order.

Pursuant to Section 15.5 of the LLC Agreement, nothing in the LLC Agreement will be interpreted as to limit or impede the rights of the Commission, pursuant to the federal securities laws and rules and regulations thereunder, and the Exchange to access and examine applicable confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any directors, officers, employees or agents of the Company and any directors, officers, employees or agents of the Members to disclose that confidential information to the Commission or the Exchange. This is substantially the same provision that is contained in the BOX Options LLC Agreement, except that it also provides

[52] 15 U.S.C. 78f(b)(5).

[53] 15 U.S.C. 78f(b)(1).

[54] A proposed rule change can also become effective by operation of law. *See* 15 U.S.C. 78s(b)(2).

[55] *See* Section 18.1 of the BOX Holdings LLC Agreement.

[56] *See* Section 3.2 of the BOX Options LLC Agreement.

[57] *See* Article 12 of the BOX Options LLC Agreement.

that the SEC can access and examine Confidential Information, pursuant to the federal securities laws and rules and regulations thereunder.[58]

Under Section 15.6 of the LLC Agreement, confidential information of the Company or the Exchange pertaining to regulatory matters (including but not limited to disciplinary matters, trading data, trading practices and audit information) will not be made available to any persons other than to the Company's Directors, officers, employees and agents that have a reasonable need to know the contents thereof; will be retained in confidence by the Company and the Directors, officers, employees and agents of the Company; and will not be used for any non-regulatory purpose. Nothing in the LLC Agreement will be interpreted as to limit or impede the rights of the Commission and the Exchange to access and examine that confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any Directors, officers, employees and agents of the Company to disclose that confidential information to the Commission or the Exchange.

Finally, Section 18.8 of the LLC Agreement establishes that the Company will not operate as a facility of the Exchange until this rule filing is effective. Upon effectiveness, the Commission and the Exchange will then have regulatory oversight responsibilities with respect to the Company and references in the LLC Agreement to the Exchange, the Commission, any regulation or oversight of the Company by the Commission or the Exchange, and any participation in the affairs of the Company by the Commission or the Exchange, will take effect. The execution of the LLC Agreement by the Exchange will not be required until the approval is obtained, at which time the Exchange will become a party to the LLC Agreement. This provision is not included in the BOX Options LLC Agreement because it would not be applicable. By not operating the Company until this rule filing is effective, the Exchange believes it is fostering cooperation and coordination with persons engaged in regulating (*e.g.,* the Commission), clearing, settling, processing information with respect to, and facilitating transactions in securities, consistent with Section 6(b)(5) of the Act.[59]

Regulatory Jurisdiction Over Members

In the discussion below, the Exchange describes provisions in the LLC Agreement related to regulatory jurisdiction over members by the Company, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

Pursuant to Section 11.1 of the LLC Agreement, which is similar in substance to a provision in the BOX Holdings LLC Agreement, the Board will cause to be entered in appropriate books, kept at the Company's principal place of business, all transactions of or relating to the Company.[60] Each Member will have the right to inspect and copy those books and records, excluding regulatory and disciplinary information. The Board will not have the right to keep confidential from the Members any information that the Board would otherwise be permitted to keep confidential pursuant to § 18–305(c) of the LLC Act, except for information required by law or by agreement with any third party to be kept confidential. The Company's independent auditor will be an independent public accounting firm selected by the Board. To the extent related to the operation or administration of the Exchange or the BSTX Market, all books and records of the Company and its Members will be maintained at a location within the United States, the books, records, premises, directors, officers, employees and agents of the Company and its Members will be deemed to be the books, records, premises, directors, officers, employees and agents of the Exchange for the purposes of, and subject to oversight pursuant to, the Act, and the books and records of the Company and its Members will be subject at all times to inspection and copying by the Commission and the Exchange.

Under Section 18.6(a) of the LLC Agreement, to the extent they are related to Company activities, the books, records, premises, officers, directors, agents, and employees of the Member will be deemed to be the books, records, premises, officers, directors, agents, and employees of the Exchange for the purpose of and subject to oversight pursuant to the Act. Further, pursuant to Section 18.6(b) of the LLC Agreement, the Company, the Members and the officers, directors, employees and agents of each, by virtue of their acceptance of those positions, will be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts, the Commission and the Exchange for purposes of any suit, action or proceeding pursuant to U.S. federal securities laws, the rules or regulations thereunder, arising out of, or relating to, activities of the Exchange and the Company, and Delaware state courts for any matter relating to the organization or internal affairs of the Company, and will be deemed to waive, and agree not to assert by way of motion, as a defense or otherwise in any suit, action or proceeding, any claims that they are not personally subject to the jurisdiction of the U.S. federal courts, the Commission, the Exchange or Delaware state courts, as applicable, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter hereof may not be enforced in or by those courts or agencies. The Company, the Members and the officers, directors, employees and agents of each, by virtue of their acceptance of those positions, also agree that they will maintain an agent in the United States for the service of process of a claim arising out of, or relating to, the activities of the Exchange and the Company. These provisions are substantially similar to provisions of the BOX Options LLC Agreement.[61]

Pursuant to Section 18.6(c) of the LLC Agreement, with respect to obligations under the LLC Agreement related to confidentiality regulation, jurisdiction and books and records, the Company, the Exchange and each Member will ensure that directors, officers and employees of the Company, the Exchange and each Member consent in writing to the applicability of the applicable provisions to the extent related to the operation or administration of the Exchange or the BSTX Market. This provision is substantially the same as the provision contained in the BOX Options LLC Agreement, with the exception of the deletion of a reference to privacy rules in Canada, which are not applicable to the current Members of the Company.[62] The Exchange believes that allowing only applicable laws to be referenced in the LLC Agreement helps to ensure that proper legal standards apply to the Company, which may foster cooperation and coordination with persons engaged in regulating transactions in securities, consistent with Section 6(b)(5) of the Act.[63] Further, the Exchange believes that basing the provisions described

[58] *See* Section 12.5 of the BOX Options LLC Agreement.

[59] 15 U.S.C. 78f(b)(5).

[60] *See* Section 11.1 of the BOX Holdings LLC Agreement.

[61] *See* Section 14.6 of the BOX Options LLC Agreement.

[62] *See* Section 14.6(c) of the BOX Options LLC Agreement.

[63] 15 U.S.C. 78f(b)(5).

above on the BOX Options LLC Agreement but omitting terms that are not applicable would help ensure that persons subject to the Exchange's jurisdiction are able to navigate and more readily understand the LLC Agreement. The Exchange believes that this, in turn, would be consistent with Section 6(b)(1) of the Act[64] because it would help ensure that the Exchange, including in its operation of facilities, is so organized and has the capacity to be able to carry out the purposes of the Act.

Amendments to LLC Agreement

In the discussion below, the Exchange describes provisions in the LLC Agreement related to amendments to the LLC Agreement, highlighting areas that vary in comparison to the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and provides the statutory basis for such variation.

Section 18.1 of the LLC Agreement, which is substantially similar to a provision in the BOX Holdings LLC Agreement,[65] provides that the LLC Agreement may only be amended by an agreement in writing approved by the Board, including at least one Member Director appointed by each Member, without the consent of any Member or other person. In addition, any terms specific to any Member or to the Exchange may not be altered or adversely affect that Member or the Exchange without the prior written consent of that Member or the Exchange as applicable. The Company will provide prompt notice to the Exchange of any amendment, modification, waiver or supplement to the LLC Agreement formally presented to the Board for approval and the Exchange will review each amendment, modification, waiver or supplement and, if that amendment is required, under Section 19 of the Act and the rules promulgated thereunder, to be filed with, or filed with and approved by, the Commission before that amendment may be effective, then that amendment will not be effective until filed with, or filed with and approved by, the Commission, as the case may be. If the Exchange ceases to be the SRO authority of the Company, the Exchange will no longer be a party to the LLC Agreement and thereafter the provisions of the LLC Agreement will not apply to the Exchange except for the provisions referenced in Section 18.12 which will survive.

[64] 15 U.S.C. 78f(b)(1).

[65] *See* Section 18.1 of the BOX Holdings LLC Agreement.

Additional Provisions

As previous mentioned, BSTX is a Delaware limited liability company. As such, the LLC Agreement contains numerous provisions that are standard or not novel for a similarly situated commercial business registered as a limited liability company under the laws of the state of Delaware.[66] The Exchange believes that these provisions are consistent with Section 6(b)(1) of the Act[67] because they are consistent with corporate governance practices, generally, and they would help ensure that the Exchange, including in its operation of facilities, is so organized and has the capacity to be able to carry out the purposes of the Act.

2. Statutory Basis

In addition to the sections above that discuss variations from the BOX Options LLC Agreement and/or BOX Holdings LLC Agreement and their associated statutory bases, the Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[68] in general, and furthers the objectives of Section 6(b)(1),[69] in particular, in that it enables the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Act[70] in that it is designed to facilitate transactions in securities, 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.

[66] *See* LLC Agreement Sections 2.1, 2.2, 2.4, 2.5, 2.6, 2.7, 3.1, 4.2, 4.5, 4.6, 4.7, 4.8, 4.9, 4.11, 5.1, 5.2, 5.3, 5.4, 5.6, 5.7, 6.3, 6.4, 6.5, 7.5, 7.6, 7.7, 8.3, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8, 10.3, 10.4, 11.2, 11.3, 11.4, 11.5, 11.6, 12, 13.1, 14, 16.2, 17, 18.2, 18.3, 18.4, 18.5, 18.7, 18.9, 18.10, 18.11, and 18.12.

[67] 15 U.S.C. 78f(b)(1).

[68] 15 U.S.C. 78f(b).

[69] 15 U.S.C. 78f(b)(5).

[70] 15 U.S.C. 78f(b)(5).

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 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–BOX–2019–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2019–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2019–37 and should be submitted on or before January 24, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[71]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2019–28412 Filed 1–2–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87866; File No. SR–NYSEArca–2019–95]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Adopt NYSE Arca Rule 8.602–E To Permit the Listing and Trading of Actively Managed Solution Shares and To List and Trade Shares of the Natixis ETF Under Proposed NYSE Arca Rule 8.602–E

December 30, 2019.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 23, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new NYSE Arca Rule 8.602–E to permit it to list and trade Actively Managed Solution Shares, which are shares of actively managed exchange-traded funds for which the portfolio is disclosed in accordance with standard mutual fund disclosure rules. In addition, the Exchange proposes to list and trade shares of the following under proposed NYSE Arca Rule 8.602–E: Natixis ETF. 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 to add new NYSE Arca Rule 8.602–E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of Actively Managed Solution Shares, which are securities issued by an actively managed open-end investment management company. The Exchange also proposes to list and trade shares (''Shares'') of the following under proposed NYSE Arca Rule 8.602–E: Natixis ETF (the ''Fund'').

Proposed Listing Rules

Proposed Rule 8.602–E(a) provides that the Exchange will consider for trading, whether by listing or pursuant to UTP, Actively Managed Solution Shares that meet the criteria of Rule 8.602–E.

Proposed Rule 8.602–E(b) provides that Rule 8.602–E is applicable only to Actively Managed Solution Shares and that, except to the extent inconsistent with Rule 8.602–E, or unless the context otherwise requires, the rules and procedures of the Exchange's Board of Directors shall be applicable to the trading on the Exchange of such securities. Proposed Rule 8.602–E(b) provides further that Actively Managed Solution Shares are included within the definition of ''security'' or ''securities'' as such terms are used in the Rules of the Exchange.

Proposed Rule 8.602–E(c)(1) defines the term ''Actively Managed Solution Shares'' as a security that (a) represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number of shares equal to a Creation Unit, or multiples thereof, in return for a designated portfolio of securities (and/or an amount of cash) with a value equal to the next determined net asset value; and (c) when aggregated in the same specified aggregate number of shares, or multiples thereof, may be redeemed at the request of an Authorized Participant (as defined in the applicable Investment Company prospectus), which Authorized Participant will be paid a portfolio of securities and/or cash with a value equal to the next determined net asset value (''NAV'').

Proposed Rule 8.602–E(c)(2) defines the term ''Actual Portfolio'' as the aggregation of securities held by a series of Actively Managed Solution Shares, which aggregation is periodically disclosed in accordance with requirements applicable to open-end management investment companies registered under the Investment Company Act of 1940 (''1940 Act'').

Proposed Rule 8.602–E(c)(3) defines the term ''Proxy Portfolio'' as a basket of cash and securities that differs from the Actual Portfolio of a series of Actively Managed Solution Shares and that is intended to closely track the daily performance of the Actual Portfolio on any trading day. The Proxy Portfolio will be disseminated each business day on the website for each series of Actively Managed Solution Shares.

Proposed Rule 8.602–E(c)(4) defines the term ''Creation Unit'' as a specified minimum number of Actively Managed Solution Shares issued by an Investment Company at the request of an

[71] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Authorized Participant in return for a designated portfolio of securities (and/or an amount of cash) specified each day and a specified minimum number of Actively Managed Solution Shares that may be redeemed to an Investment Company at the request of an Authorized Participant in return for a portfolio of securities and/or cash, consistent with the Investment Company's investment objectives and policies.

Proposed Rule 8.602–E(c)(5) defines the term ''Reporting Authority'' in respect of a particular series of Actively Managed Solution Shares means the Exchange, the exchange that lists a particular series of Actively Managed Solution Shares (if the Exchange is trading such series pursuant to unlisted trading privileges), an institution, or a reporting service designated by the issuer of a series of Actively Managed Solution Shares as the official source for calculating and reporting information relating to such series, including the net asset value, or other information relating to the issuance, redemption or trading of Actively Managed Solution Shares. A series of Actively Managed Solution Shares may have more than one Reporting Authority, each having different functions.

Proposed Rule 8.602–E(c)(6) defines the term ''normal market conditions'' as including, but not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

Proposed Rule 8.602–E(d) sets forth initial and continued listing criteria applicable to Actively Managed Solution Shares. Proposed Rule 8.602–E(d)(1)(A) provides that, for each series of Actively Managed Solution Shares, the Exchange will establish a minimum number of Actively Managed Solution Shares required to be outstanding at the time of commencement of trading on the Exchange. In addition, proposed Rule 8.602–E(d)(1)(B) provides that the Exchange will obtain a representation from the issuer of each series of Actively Managed Solution Shares that the NAV per share for the series will be calculated daily and that the NAV will be made available to all market participants at the same time.[4] Proposed Rule 8.602–E(d)(1)(C) provides that all Actively Managed Solution Shares shall have a stated investment objective, which shall be adhered to under normal market conditions.

Proposed Rule 8.602–E(d)(2) provides that each series of Actively Managed Solution Shares will be listed and traded subject to application of the following continued listing criteria:

Proposed Rule 8.602–E(d)(2)(A) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Actively Managed Solution Shares under any of the following circumstances:

(i) If any of the continued listing requirements set forth in Rule 8.602–E are not continuously maintained;

(ii) if any of the statements or representations regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange listing rules, specified in the Exchange's rule filing pursuant to Section 19(b) of the Securities Exchange Act of 1934 to permit the listing and trading of a series of Actively Managed Solution Shares, is not continuously maintained; or

(iii) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

Proposed Rule 8.602–E(d)(2)(B) provides that, upon notification to the Exchange by the issuer of a series of Actively Managed Solution Shares that the NAV with respect to such series is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV is available to all market participants. The Exchange may also halt trading at the request of the investment adviser to a series of Actively Managed Solution Shares upon notification to the Exchange by the issuer of such series that the securities representing 10% or more of the Actual Portfolio for such series do not have readily available market quotations, and during times of unusual market volatility where a significant portion of such series' Actual Portfolio are subject to a trading halt or have a last trade price that the investment adviser deems unreliable, if the investment adviser determines that it is in the best interest of such series.

Proposed Rule 8.602–E(d)(2)(C) provides that, upon termination of an Investment Company, the Exchange requires that Actively Managed Solution Shares issued in connection with such entity be removed from Exchange listing.

Proposed Rule 8.602–E(d)(2)(D) provides that voting rights shall be as set forth in the applicable Investment Company prospectus.

Proposed Rule 8.602–E(e), which relates to limitation of Exchange liability, provides that neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current portfolio value; the current value of the portfolio of securities required to be deposited to the Investment Company in connection with issuance of Actively Managed Solution Shares; the amount of any dividend equivalent payment or cash distribution to holders of Actively Managed Solution Shares; net asset value; or other information relating to the purchase, redemption, or trading of Actively Managed Solution Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

Proposed Commentary .01 to NYSE Arca Rule 8.602–E provides that the Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before the listing and trading of Actively Managed Solution Shares. All statements or representations contained in such rule filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Proposed Commentary .02 to NYSE Arca Rule 8.602–E provides that the Exchange will implement and maintain

[4] NYSE Arca Rule 7.18–E(d)(2) (''Halts of Derivative Securities Products Listed on the NYSE Arca Marketplace'') provides that, with respect to Derivative Securities Products listed on the NYSE Arca Marketplace for which a net asset value is disseminated, if the Exchange becomes aware that the net asset value is not being disseminated to all market participants at the same time, it will halt trading in the affected Derivative Securities Product on the NYSE Arca Marketplace until such time as the net asset value is available to all market participants.

written surveillance procedures for Actively Managed Solution Shares.

Proposed Commentary .03 to NYSE Arca Rule 8.602–E provides that, if the investment adviser to the Investment Company issuing Actively Managed Solution Shares is registered as a broker-dealer or is affiliated with a broker-dealer such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition of and/or changes to such Investment Company's Actual Portfolio or the applicable Proxy Portfolio. Personnel who make decisions on the Investment Company's Actual Portfolio or the applicable Proxy Portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company Actual Portfolio or Proxy Portfolio.[5]

Key Features of Actively Managed Solution Shares

While funds issuing Actively Managed Solution Shares will be actively-managed and, to that extent, will be similar to Managed Fund Shares, Actively Managed Solution Shares differ from Managed Fund Shares in the following important respects. First, in contrast to Managed Fund Shares, which are actively-managed funds listed and traded under NYSE Arca Rule 8.600–E[6] and for which a ''Disclosed Portfolio'' is required to be disseminated at least once daily,[7] the portfolio for an issue of Actively Managed Solution Shares will be disclosed at least quarterly in accordance with normal disclosure requirements otherwise applicable to open-end management investment companies registered under the 1940 Act.[8] The composition of the portfolio of an issue of Actively Managed Solution Shares would not be available at commencement of Exchange listing and trading. Second, Actively Managed Solution Shares would not publish their full portfolio contents daily. Instead, Actively Managed Solution Shares would utilize a proxy portfolio methodology, as described below (the ''NYSE Proxy Portfolio Methodology'') that would allow market participants to assess the intraday value and associated risk of a fund's then-current portfolio (the ''Actual Portfolio'') and thereby facilitate the purchase and sale of shares by investors in the secondary market at prices that do not vary materially from their NAV.[9] The NYSE Proxy Portfolio Methodology would utilize creation of a proxy portfolio (''Proxy Portfolio'') for hedging and arbitrage purposes.[10] Daily disclosure of Proxy Portfolio contents, Proxy Overlap and related metrics, as described below (the ''Proxy Portfolio Disclosures''), would permit effective hedging of risks associated with arbitrage and market making activities concerning a series of Actively Managed Solution Shares, permitting market making in Actively Managed Solution Shares with reasonable bid/ask spreads. In essence, the Proxy Portfolio Disclosures should permit market making in fund shares that keeps bid/ask spreads narrow and the secondary market prices of fund shares at or close to NAV.

The Exchange, after consulting with various Lead Market Makers that trade exchange-traded funds (''ETFs'') on the Exchange, believes that market makers will be able to make efficient and liquid markets priced near the NAV in light of the daily Proxy Portfolio Disclosures, and market makers employ market making techniques such as ''statistical arbitrage,'' including correlation hedging, beta hedging, and dispersion trading, which is currently used throughout the financial services industry, to make efficient markets in exchange-traded products.[11] This ability should permit market makers to make efficient markets in an issue of Actively Managed Solution Shares without precise knowledge of a fund's underlying portfolio.

The Exchange understands that traders use statistical analysis to derive correlations between different sets of instruments to identify opportunities to buy or sell one set of instruments when it is mispriced relative to the others. For Actively Managed Solution Shares, market makers may use the knowledge of a fund's means of achieving its investment objective, as described in the applicable fund registration statement, together with the Proxy Portfolio Disclosures to manage a market maker's quoting risk in connection with trading Fund Shares. Market makers can then conduct statistical arbitrage between Proxy Portfolio and shares of a fund, buying and selling one against the other over the course of the trading day. They will evaluate how the Proxy Portfolio performed in comparison to the price of a fund's shares, and use that analysis as well as knowledge of risk metrics, such as volatility and turnover, to provide a more efficient hedge.

[5] The Exchange will propose applicable NYSE Arca listing fees for Actively Managed Solution Shares in the NYSE Arca Equities Schedule of Fees and Charges via a separate proposed rule change.

[6] The Commission has previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under NYSE Arca Rule 8.600–E. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR–NYSEArca–2010–118) (order approving Exchange listing and trading of the SiM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF). The Commission also has approved a proposed rule change relating to generic listing standards for Managed Fund Shares. Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016 (SR–NYSEArca–2015–110) (amending NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

[7] NYSE Arca Rule 8.600–E(c)(2) defines the term ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. NYSE Arca Rule 8.600–E(d)(2)(B)(i) requires that the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

[8] A mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–CSR under the 1940 Act, and is required to file its complete portfolio schedules each month on Form N–PORT under the 1940 Act, within 60 days of the end of each month. Information reported on Form N–PORT for the third month of the Fund's fiscal quarter will be made publicly available 60 days after the end of the Fund's fiscal quarter. These forms are available to the public on the Commission's website at *www.sec.gov.*

[9] The NYSE Proxy Portfolio Methodology is owned by the NYSE Group, Inc. and licensed for use by the Fund. NYSE Group, Inc. is not affiliated with the Fund, Adviser or Distributor.

[10] With respect to the Fund, the Fund will have in place policies and procedures regarding the construction and composition of its Proxy Portfolio. Such policies and procedures will be covered by the Fund's compliance program and other requirements under Rule 38a–1 under the 1940 Act.

[11] Statistical arbitrage enables a trader to construct an accurate proxy for another instrument, allowing it to hedge the other instrument or buy or sell the instrument when it is cheap or expensive in relation to the proxy. Statistical analysis permits traders to discover correlations based purely on trading data without regard to other fundamental drivers. These correlations are a function of differentials, over time, between one instrument or group of instruments and one or more other instruments. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging proxy has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period making correction where warranted. In the case of correlation hedging, the analysis seeks to find a proxy that matches the pricing behavior of a fund. In the case of beta hedging, the analysis seeks to determine the relationship between the price movement over time of a fund and that of another stock.

Market makers have indicated to the Exchange that there will be sufficient data to run a statistical analysis which will lead to spreads being tightened substantially around NAV of a fund's shares. This is similar to certain other existing exchange traded products (for example, ETFs that invest in foreign securities that do not trade during U.S. trading hours), in which spreads may be generally wider in the early days of trading and then narrow as market makers gain more confidence in their real-time hedges.

Description of the Fund and the Trust

The Fund will be a series of Natixis ETF Trust II (''Trust''), which will be registered with the Commission as an open-end management investment company.[12]

Natixis Advisors, L.P. (''Adviser'') will be the investment adviser to the Fund. ALPS Distributors, Inc. will act as the distributor and principal underwriter (''Distributor'') for the Fund.

Proposed Commentary .03 to NYSE Arca Rule 8.602–E provides that, if the investment adviser to the Investment Company issuing Actively Managed Solution Shares is registered as a broker-dealer or is affiliated with a broker-dealer such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company's Actual Portfolio or the applicable Proxy Portfolio. Personnel who make decisions on the Investment Company's Actual Portfolio or the applicable Proxy Portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company Actual Portfolio or Proxy Portfolio. Proposed Commentary .03 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Rule 5.2–E(j)(3); however, Commentary .03, in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer, reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds.[13] The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer. The Adviser has implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio.

In the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer, or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Actively Managed Solution Shares

According to the Application, the Adviser believes Actively Managed Solution Shares would allow for efficient trading of Shares through an effective Fund portfolio transparency substitute and publication of related informative metrics, while still shielding the identity of the full Fund portfolio contents to protect the Fund's performance-seeking strategies. Even though the Fund would not publish its full portfolio contents daily, the Adviser believes that the NYSE Proxy Portfolio Methodology would allow market participants to assess the intraday value and associated risk of the Fund's then-current portfolio (the ''Actual Portfolio''). As a result, the Adviser believes that investors would be able to purchase and sell Shares in the secondary market at prices that are close to their NAV. An important part of the NYSE Proxy Portfolio Methodology would be the creation of the Proxy Portfolio. As noted above, daily disclosure of the Proxy Portfolio Disclosures would also allow the Fund to permit effective arbitrage, including hedging of investors' positions in Shares.

The Adviser believes Actively Managed Solution Shares would benefit investors by allowing them to access a greater choice of active portfolio managers in an ETF structure, which provides benefits over traditional mutual funds such as brokerage account transactional efficiencies, lower fund costs, tax efficiencies and intraday liquidity.

Natixis ETF

According to the Registration Statement, the Fund will invest only in ETFs,[14] exchange-traded notes (''ETNs''),[15] U.S. exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares (''foreign common stocks'') in the Exchange's Core Trading Session (normally 9:30 a.m. and 4:00 p.m., Eastern time (''E.T.'')), U.S. exchange-traded preferred stocks, U.S. exchange-traded American Depositary Receipts (''ADRs''),[16] U.S. exchange-traded real estate investment trusts, U.S. exchange-traded commodity pools, U.S. exchange-traded metals trusts, U.S. exchange-

[12] The Trust is registered under the 1940 Act. On December 12, 2019, the Trust filed a registration statement on Form N–1A under the Securities Act of 1933 (the ''1933 Act'') (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–235466 and 811–23500) (the ''Registration Statement''). The Trust and NYSE Group, Inc. filed a Seventh Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14870), dated October 21, 2019 (''Application''). On November 14, 2019, the Commission issued a notice regarding the Application. Investment Company Release No. 33684 (File No. 812–14870). On December 10, 2019, the Commission issued an order (''Exemptive Order'') under the 1940 Act granting the exemptions requested in the Application (Investment Company Act Release No. 33711 (December 10, 2019)). Investments made by the Fund will comply with the conditions set forth in the Application and the Exemptive Order. The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement and the Application.

[13] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel will be subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violations, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[14] For purposes of this filing, ''ETFs'' are Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs will be listed and traded in the U.S. on a national securities exchange.

[15] ETNs are Index-Linked Securities as described in NYSE Arca Rule 5.2–E(j)(6).

[16] ADRs are issued by a U.S. financial institution (a ''depositary'') and evidence ownership in a security or pool of securities issued by a foreign issuer that have been deposited with the depositary. Each ADR will be registered under the Securities Act on Form F–6.

traded currency trusts and U.S. exchange-traded futures [17] that trade contemporaneously with Fund Shares, as well as cash and cash equivalents (together, the ''Permissible Investments'').[18] The Fund will not hold short positions or invest in derivatives other than U.S. exchange-traded futures. The Fund will not borrow for investment purposes.

Under normal market conditions,[19] the Fund will primarily invest in common stocks of U.S. companies. The Fund generally will invest in securities of larger capitalization companies in any industry.

The NYSE Proxy Portfolio Methodology

According to the Application, the goal of the NYSE Proxy Portfolio Methodology is to permit a fund's Proxy Portfolio, during all market conditions, to track closely the daily performance of a fund's Actual Portfolio and minimize intra-day misalignment between the performance of the Proxy Portfolio and the performance of the Actual Portfolio. The Proxy Portfolio is designed to reflect the economic exposures and the risk characteristics of the Actual Portfolio on any given trading day. The Adviser and the Exchange believe that the Proxy Portfolio Disclosures will enable arbitrageurs and market participants to use the component securities and their weightings in the Proxy Portfolio to calculate intraday values that approximate the value of the securities in the Actual Portfolio and, based thereon, assess whether the market price of the Shares is higher or lower than the approximate contemporaneous value of the Actual Portfolio and engage in arbitrage and hedging activities. These activities will help ensure that fund market prices remain close to a fund's NAV per Share. In addition, the Proxy Portfolio Disclosures generated by the NYSE Proxy Portfolio Methodology will allow for effective hedging activities by market makers, which will facilitate narrow bid/ask spreads for shares.

The Proxy Portfolio

According to the Application, the Proxy Portfolio is designed to recreate the daily performance of the Actual Portfolio. This is achieved by performing a ''Factor Model'' analysis of the Actual Portfolio. The Factor Model is comprised of three sets of factors or analytical metrics: Market-based factors, fundamental factors, and industry/sector factors.

The Fund, utilizing the NYSE Proxy Portfolio Methodology, will have a universe of securities (the ''Model Universe'') that will be used to generate the Fund's Proxy Portfolio. The Model Universe will be comprised of securities that the Fund can purchase and will be a financial index or stated portfolio of securities from which Fund investments will be selected. For example, the Model Universes could be the S&P 500 Index, the Russell 1000 Index or the 3,000 largest U.S.-listed equity securities.

The results of the Factor Model analysis of the Fund's Actual Portfolio are then applied to the Fund's Model Universe. The daily rebalanced Proxy Portfolio is then generated as a result of this Model Universe analysis with the Proxy Portfolio being a small sub-set of the Model Universe.[20] Consequently, the Factor Model is applied to both the Actual Portfolio and the Model Universe to construct the Fund's Proxy Portfolio that performs in a manner substantially identical to the performance of its Actual Portfolio. The Proxy Portfolio will only include Permissible Investments.

The Adviser believes that the mere inclusion of components in the Proxy Portfolio that are not part of the Actual Portfolio will not have a noticeable impact on the values of such components. As with the Actual Portfolio, the assets that may be included in the Proxy Portfolio are expected to be extremely liquid and it is highly unlikely that either their inclusion in the Proxy Portfolio or the Creation Basket (as defined below) [21] would cause a change in the prices of those securities, even during times of market volatility. The NYSE Proxy Portfolio Methodology seeks to provide a mechanism whereby market participants can assess the intraday value of the Actual Portfolio and, therefore, by design seeks to exclude components from being included in the Proxy Portfolio whose values may change solely by virtue of being included in the Proxy Portfolio or Creation Basket.

According to the Application, most traditional ETFs are required to provide full daily portfolio holding disclosure. As discussed below, the Adviser believes that the ''Proxy Portfolio'' (as described below) would be acceptable to market participants as a substitute for full daily portfolio transparency. In particular, the Adviser believes that the ''Proxy Portfolio Disclosures'' (as described below) resulting daily from the NYSE Proxy Portfolio Methodology will provide sufficient information to (1) allow for effective hedging by market participants that will have the effect of keeping Share bid/ask spreads within a narrow range that will foster liquid Share markets, and (2) support arbitrage activities by Authorized Participants and other arbitrageurs that will have the effect of keeping Fund Share trading prices at or close to NAV per Share. The Adviser expects this to be the case because, among other matters, the component securities included in the daily Proxy Portfolio and their weightings can be used by market participants to value and hedge the Actual Portfolio.

The component securities included in the daily Proxy Portfolio and their weightings will be used by market participants to value and hedge the Actual Portfolio. If creation/redemption activity is necessary, market makers will trade their residual risk at the market close to be in line with the necessary positions provided in the creation/redemption baskets. The Adviser represents that this well-known process is utilized by market makers and does not add additional market risk to the arbitrage and creation/redemption process. Thus, the Proxy Portfolio is designed to obtain the benefit of a known pricing process.

As discussed below, the ''Tracking Error'' between the NAV per Share of the Actual Portfolio and value, on a per Share basis, of the Fund's Proxy Portfolio would be calculated at the end of the trading day and published before the opening of Fund Share trading on the Exchange's Core Trading Session the next Business Day to provide additional information to the market making community. Daily Tracking Error publication will allow market participants to provide more efficient markets and therefore narrower bid/ask spreads. The Adviser believes this information, alongside the periodic Fund disclosures and the other Proxy Portfolio Disclosures, will provide the level of detail necessary to foster

[17] Exchange-traded futures are U.S. listed futures contracts where the future 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, such as an S&P 500 index future. All futures contracts that the Fund may invest in will be traded on a U.S. futures exchange.

[18] For purposes of this filing, cash equivalents are short-term U.S. Treasury securities, government money market funds, and repurchase agreements.

[19] The term ''normal market conditions'' is defined in proposed Rule 8.602–E(c)(6).

[20] As a part of the Proxy Portfolio generation process, a restricted list is maintained to ensure that if one class of an issuer's securities is excluded from (or included in) the Proxy Portfolio, other classes of securities of the same issuer are excluded from the Proxy Portfolio.

[21] As discussed below, the Creation Basket will include the same names and quantities as the Fund's Proxy Portfolio, subject to cash substitutions.

efficient markets and support effective arbitrage functions.

If the trading of a security held in the Fund's Actual Portfolio is halted or otherwise does not have readily available market quotations, the Adviser promptly will disclose on the Fund's website the identity and weighting of such security for so long as such security's trading is halted or otherwise does not have readily available market quotations and remains in the Actual Portfolio. The Adviser believes that this intraday corrective measure will allow sufficient market information so that market participants can continue to engage in Share arbitrage and hedging transactions effectively.

Hedging and Arbitrage Opportunities

According to the Application, the Adviser believes that a reliable fund share hedging vehicle, where Proxy Portfolio performance is closely correlated to the Actual Portfolio performance, will reduce the risk of arbitrage trading and will encourage market making activity that drives Share market trading price closer to NAV per Share of the Fund. The Adviser believes that market makers for the Shares would determine bid/ask spreads for the Shares based primarily on the market makers' costs to hedge their exposure to the Shares, much in the same way that they determine bid/ask spreads for actively managed and passive ETFs that are already listed and traded in the secondary market. The prices and determination of effective hedging instruments will be influenced by the expected Tracking Error and price differentials between the Proxy Portfolio, which is fully disclosed, and the expected NAV per Share that will be calculated at the end of the trading day.

According to the Application, historically, all active ETFs have sought to facilitate market making activity and arbitrage trading by providing full daily portfolio transparency. The Adviser believes that market making activity and arbitrage trading can be facilitated for the Fund by the information proposed to be provided to the market including: The identity and quantity of the components in the highly correlated Proxy Portfolio, Proxy Overlap, Tracking Error, and the last publicly-disclosed Fund portfolio as well as the identity of the Fund's benchmark index. The Adviser represents that, all other factors being equal, the statistical analysis and case studies of Proxy Portfolio and Actual Portfolio performance correlation indicate that market maker bid/ask spreads for Shares should, on average, be similar to those of active ETFs currently trading on exchanges.

More specifically, because the Proxy Portfolio will be constructed to generate performance that is correlated to the performance of the Actual Portfolio, the Adviser believes that arbitrageurs and market participants will be able to use the component securities and their weightings in the Proxy Portfolio to calculate intraday values that approximate the value of the securities in the Actual Portfolio. As with existing fully transparent active ETFs, arbitrageurs and market makers then would be able to assess whether the market price of the Shares was higher or lower than the approximate contemporaneous value of the Actual Portfolio securities, and to make arbitrage and hedging decisions using the securities in the Proxy Portfolio.[22]

Daily Disclosures

With respect to the Fund, the following information will comprise the ''Proxy Portfolio Disclosures'' and will be publicly available on the Fund's website before the commencement of trading in Shares on each Business Day:

- The Proxy Portfolio holdings (including the identity and quantity of investments in the Proxy Portfolio) will be publicly available on the Fund's website before the commencement of trading in Shares on each Business Day. The Proxy Portfolio will include the following information for each portfolio holding in the Proxy Portfolio: (1) Ticker symbol; (2) CUSIP or other identifier; (3) description of holding; (4) quantity of each security or other asset held; and (5) percentage weight of the holding in the Proxy Portfolio.
- The historical ''Tracking Error'' between the Fund's last published NAV per share and the value, on a per Share basis, of the Fund's Proxy Portfolio calculated as of the close of trading on the prior Business Day will be publicly available on the Fund's website before the commencement of trading in Shares each Business Day.
- The ''Proxy Overlap'' will be publicly available on the Fund's website before the commencement of trading in Shares on each Business Day. The Proxy Overlap is the percentage weight overlap between the Proxy Portfolio's holdings compared to the Actual Portfolio's holdings that formed the basis for the Fund's calculation of NAV at the end of the prior Business Day. The Proxy Overlap will be calculated by taking the lesser weight of each asset held in common between the Actual Portfolio and the Proxy Portfolio and adding the totals.

Typical mutual fund-style annual, semi-annual and quarterly disclosures contained in the Fund's Commission filings will also be provided on the Fund's website on a current basis.[23] Thus, the Fund will publish the portfolio contents of its Actual Portfolio on a periodic basis. In addition, the Fund will post on its website its NAV per Share calculated after the close of trading on the prior Business Day.[24]

Creations and Redemptions of Shares

According to the Application, the ''Creation Basket'' (as defined below) will be based on the Proxy Portfolio, which is designed to approximate the value and performance of the Actual Portfolio. All Creation Basket instruments will be valued in the same manner as they are valued for purposes of calculating the Fund's NAV, and such valuation will be made in the same manner regardless of the identity of the purchaser or redeemer. Further, the total consideration paid for the purchase or redemption of a Creation Unit of Shares will be based on the NAV of the Fund, as calculated in accordance with the policies and procedures set forth in its registration statement.

As with the Proxy Portfolio, the Creation Basket will mask the Fund's Actual Portfolio from full disclosure while at the same time maximize benefits of the ETF structure to shareholders. In particular, the Adviser believes that the ability of the Fund to take deposits and make redemptions in-kind may aid in achieving the Fund's investment objectives by allowing it to be more fully invested, minimizing cash drag, and reducing flow-related trading

[22] According to the Application, the Adviser believes that it is statistically impractical to replicate the Actual Portfolio in a manner that would provide any trading advantage to a market participant over a fund. A fund's daily disclosures, (*e.g.,* Proxy Portfolio Disclosures and other fund website information and periodic disclosures) are insufficient to permit a third-party to replicate the Fund's Actual Portfolio because the NYSE Proxy Portfolio Methodology only uses lagged information regarding purchases and sales occurring in the Actual Portfolio. Moreover, the daily publication of the Creation Basket information is insufficient to replicate the Actual Portfolio because it is based on the Proxy Portfolio, the construction of which is discussed above. In using the Proxy Portfolio, the intent is not to mask the entire Actual Portfolio but only the current activity in the Actual Portfolio. None of the Proxy Portfolio Disclosures provide up-to-date, granular or frequent enough information about the Actual Portfolio to permit replication of the Actual Portfolio or Fund investment strategies on a current basis.

[23] *See* note 8, *supra.*

[24] The Fund will have in place policies and procedures regarding the construction and composition of its Proxy Portfolio. Such policies and procedures will be covered by the Fund's compliance program and other requirements under Rule 38a–1 under the 1940 Act.

costs. In-kind transactions may also increase the Fund's tax efficiency and promote efficient secondary market trading in Shares.

According to the Application, the Trust will offer, issue and sell Shares of the Fund to investors only in Creation Units through the Distributor on a continuous basis at the NAV per Share next determined after an order in proper form is received. The NAV of the Fund is expected to be determined as of 4:00 p.m. E.T. on each Business Day. The Trust will sell and redeem Creation Units of the Fund only on a Business Day. Creation Units of the Fund may be purchased and/or redeemed entirely for cash, as permissible under the procedures described below. The Adviser anticipates that the trading price of a Share will range from $10 to $100.

In order to keep costs low and permit the Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments''). The names and quantities of the instruments that constitute the Deposit Instruments and the Redemption Instruments for the Fund (collectively, the ''Creation Basket'') will be the same as the Fund's Proxy Portfolio, except to the extent purchases and redemptions are made entirely or in part on a cash basis.

If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

The Fund will adopt and implement policies and procedures regarding the composition of its Creation Baskets. The policies and procedures will set forth detailed parameters for the construction and acceptance of baskets in compliance with the terms and conditions of the Exemptive Order and that are in the best interests of the Fund and its shareholders, including the process for any revisions to or deviations from those parameters. The Fund's basket policies and procedures would be covered by the Fund's compliance program and other requirements under Rule 38a–1 under the 1940 Act.

While the Fund normally will issue and redeem Shares in kind, the Fund may require purchases and redemptions to be made entirely or in part on a cash basis. In such an instance, the Fund will announce, before the open of trading in the Core Trading Session (normally, 9:30 a.m. to 4:00 p.m., E.T.) on a given Business Day, that all purchases, all redemptions, or all purchases and redemptions on that day will be made wholly or partly in cash. The Fund may also determine, upon receiving a purchase or redemption order from an Authorized Participant, to have the purchase or redemption, as applicable, be made entirely or in part in cash. Each Business Day, before the open of trading on the Exchange, the Fund will cause to be published through the National Securities Clearing Corporation (''NSCC'') the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket.

All orders to purchase Creation Units must be placed with the Distributor by or through an Authorized Participant, which is either: (1) A ''participating party'' (*i.e.,* a broker or other participant), in the Continuous Net Settlement (''CNS'') System of the NSCC, a clearing agency registered with the Commission and affiliated with the Depository Tust Company (''DTC''), or (2) a DTC Participant, which in any case has executed a participant agreement with the Distributor and the transfer agent.

Timing and Transmission of Purchase Orders

All orders to purchase (or redeem) Creation Units, whether using the NSCC Process or the DTC Process, must be received by the Distributor no later than the NAV calculation time (''NAV Calculation Time''), generally 4:00 p.m. E.T. on the date the order is placed (''Transmittal Date'') in order for the purchaser (or redeemer) to receive the NAV determined on the Transmittal Date. In the case of custom orders, the order must be received by the Distributor sufficiently in advance of the NAV Calculation Time in order to help ensure that the Fund has an opportunity to purchase the missing securities with the cash in lieu amounts or to sell securities to generate the cash in lieu amounts prior to the NAV Calculation Time. On days when the Exchange closes earlier than normal, the Fund may require custom orders to be placed earlier in the day.

Availability of Information

The Fund's website (*www.im.natixis.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's website will include on a daily basis, per Share for the Fund, (1) daily trading volume, the prior Business Day's NAV and the ''Closing Price'' or ''Bid/Ask Price,'' [25] and a calculation of the premium/discount of the Closing Price or Bid/Ask Price against such NAV,[26] and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The website and information will be publicly available at no charge.

The Fund may also provide additional quantitative information on its website. In addition, the Fund will provide any other information on its website regarding premiums/discounts that ETFs registered under the 1940 Act may be required to provide.[27] The website also will include the Proxy Portfolio for the Fund, the Proxy Overlap and Tracking Error for the Fund.

The Proxy Portfolio holdings (including the identity and quantity of investments in the Proxy Portfolio) will be publicly available on the Fund's website before the commencement of trading in Shares on each Business Day.

Investors can also obtain the Fund's statement of additional information

[25] The Bid/Ask Price of Shares of the Fund will be determined using the highest bid and the lowest offer on the Consolidated Tape as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund or its service providers. The ''Bid/Ask Price'' is the midpoint of the highest bid and lowest offer based upon the National Best Bid and Offer as of the time of calculation of the Fund's NAV. The ''National Best Bid and Offer'' is the current national best bid and national best offer as disseminated by the Consolidated Quotation System or UTP Plan Securities Information Processor. The ''Closing Price'' of Shares is the official closing price of the Shares on the Exchange.

[26] The ''premium/discount'' refers to the premium or discount to NAV at the end of a trading day and will be calculated based on the last Bid/Ask Price or the Closing Price on a given trading day.

[27] According to the Application, the Fund's website will include any other information regarding premiums and discounts as may be required for other ETFs under Rule 6c–11 under the 1940 Act and will also disclose any information regarding the bid/ask spread for the Fund as may be required for other ETFs under Rule 6c–11 under the 1940 Act.

(''SAI''), Shareholder Reports, Form N–CSR, N–PORT and Form N–CEN. The prospectus, SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR, N–PORT, and Form N–CEN may be viewed on-screen or downloaded from the Commission's website.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Updated price information for U.S. exchange-listed equity securities is available through major market data vendors or securities exchanges trading such securities. Quotation and last sale information for the Shares, equity securities and ETFs will be available via the Consolidated Tape Association (''CTA'') high-speed line. Price information for cash equivalents is available through major market data vendors.

Investment Restrictions

The Shares of the Fund will conform to the initial and continued listing criteria under proposed Rule 8.602–E. The Fund's holdings will be limited to and consistent with permissible holdings as described in the Exemptive Application.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[28] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.602–E(d)(2)(B), which sets forth circumstances under which Shares of the Fund will be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace in all trading sessions in accordance with NYSE Arca Rule 7.34–E(a). As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.602–E. The Exchange represents that, for initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[29] as provided by NYSE Arca Rule 5.3–E. The Exchange will obtain a representation from the issuer of the Shares of the Fund that the NAV per Share of the Fund will be calculated daily and will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[30] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, exchange-traded equity securities, and futures contracts with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[31]

The Adviser will make available daily to FINRA and the Exchange the portfolio holdings of the Fund in order to facilitate the performance of the surveillances referred to above.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares; (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) how information regarding the Proxy Portfolio will be disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[32] in general, and furthers the objectives of Section 6(b)(5) of the Act,[33] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market

[28] *See* NYSE Arca Rule 7.12–E.

[29] *See* 17 CFR 240.10A–3.

[30] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[31] For a list of the current members of ISG, *see www.isgportal.org.*

[32] 15 U.S.C. 78f(b).

[33] 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest.

The Exchange believes that proposed Rule 8.602–E is designed to prevent fraudulent and manipulative acts and practices in that the proposed rules relating to listing and trading of Actively Managed Solution Shares provide specific initial and continued listing criteria required to be met by such securities.

Proposed Rule 8.602–E (d) sets forth initial and continued listing criteria applicable to Actively Managed Solution Shares. Proposed Rule 8.602–E(d)(1)(A) provides that, for each series of Actively Managed Solution Shares, the Exchange will establish a minimum number of Actively Managed Solution Shares required to be outstanding at the time of commencement of trading on the Exchange. In addition, proposed Rule 8.602–E(d)(1)(B) provides that the Exchange will obtain a representation from the issuer of each series of Actively Managed Solution Shares that the NAV per share for the series will be calculated daily and that the NAV will be made available to all market participants at the same time. Proposed Rule 8.602–E(d)(2) provides that each series of Actively Managed Solution Shares will be listed and traded subject to application of specified continued listing criteria. Proposed Rule 8.602–E(d)(2)(A) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Actively Managed Solution Shares under any of the circumstances specified in such rule.

Proposed Rule 8.602–E(d)(2)(B) provides that, upon notification to the Exchange by the issuer of a series of Actively Managed Solution Shares, that the net asset value with respect to a series of Actively Managed Solution Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value is available to all market participants.

Proposed Commentary .01 to NYSE Arca Rule 8.602–E provides that the Exchange will file separate proposals under Section 19(b) of the Act before the listing and trading of Actively Managed Solution Shares. All statements or representations contained in such rule filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Proposed Commentary .02 to NYSE Arca Rule 8.602–E provides that the Exchange will implement and maintain written surveillance procedures for Actively Managed Solution Shares. Proposed Commentary .03 provides that, if the investment adviser to the Investment Company issuing Actively Managed Solution Shares is registered as a broker-dealer or is affiliated with a broker-dealer such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company's Actual Portfolio or the applicable Proxy Portfolio. Personnel who make decisions on the Investment Company's Actual Portfolio or the applicable Proxy Portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company Actual Portfolio or Proxy Portfolio.

With respect to the proposed listing and trading of Shares of the Fund, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.602–E. All exchange-listed equity securities held by the Fund will be listed on U.S. national securities exchanges. The listing and trading of such securities is subject to rules of the exchanges on which they are listed and traded, as approved by the Commission. The Fund will primarily hold U.S.-listed equity securities and shares issued by other U.S.-listed ETFs. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, exchange-traded equity securities, and futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The Exchange, after consulting with various Lead Market Makers that trade ETFs on the Exchange, believes that market makers will be able to make efficient and liquid markets priced near the NAV, and that market makers have knowledge of a fund's means of achieving its investment objective even without daily disclosure of a fund's underlying portfolio. The Exchange believes that market makers will employ risk-management techniques to make efficient markets in exchange traded products.[34] This ability should permit market makers to make efficient markets in shares without knowledge of a fund's underlying portfolio.

The Exchange understands that traders use statistical analysis to derive correlations between different sets of instruments to identify opportunities to buy or sell one set of instruments when it is mispriced relative to the others. For Actively Managed Solution Shares, market makers utilizing statistical arbitrage use the knowledge of a fund's means of achieving its investment objective, as described in the applicable fund registration statement, as well as Proxy Portfolio Disclosures to manage a market maker's quoting risk in connection with trading fund shares. Market makers will then conduct statistical arbitrage between the Proxy Portfolio and shares of a fund, buying and selling one against the other over the course of the trading day. Eventually, at the end of each day, they will evaluate how the Proxy Portfolio performed in comparison to the price of a fund's shares, and use that analysis as well as knowledge of risk metrics, such as volatility and turnover, to provide a more efficient hedge.

The Lead Market Makers also indicated that, as with some other new exchange-traded products, spreads would tend to narrow as market makers gain more confidence in the accuracy of their hedges and their ability to adjust these hedges in real-time and gain an understanding of the applicable market risk metrics such as volatility and turnover, and as natural buyers and sellers enter the market. Other relevant factors cited by Lead Market Makers were that a fund's investment objectives are clearly disclosed in the applicable prospectus, the existence of quarterly portfolio disclosure and the ability to create shares in creation unit size.

The real-time dissemination of the identity and quantity of Proxy Portfolio component investments, together with the right of Authorized Participants to create and redeem each day at the NAV, will be sufficient for market participants to value and trade shares in a manner that will not lead to significant deviations between the shares' Bid/Ask Price and NAV.

[34] *See* note 11, *supra.*

The pricing efficiency with respect to trading a series of Actively Managed Solution Shares will generally rest on the ability of market participants to arbitrage between the shares and a fund's portfolio, in addition to the ability of market participants to assess a fund's underlying value accurately enough throughout the trading day in order to hedge positions in shares effectively. Professional traders can buy shares that they perceive to be trading at a price less than that which will be available at a subsequent time and sell shares they perceive to be trading at a price higher than that which will be available at a subsequent time. It is expected that, as part of their normal day-to-day trading activity, market makers assigned to shares by the Exchange, off-exchange market makers, firms that specialize in electronic trading, hedge funds and other professionals specializing in short-term, non-fundamental trading strategies will assume the risk of being ''long'' or ''short'' shares through such trading and will hedge such risk wholly or partly by simultaneously taking positions in correlated assets [35] or by netting the exposure against other, offsetting trading positions—much as such firms do with existing ETFs and other equities. Disclosure of a fund's investment objective and principal investment strategies in its prospectus and SAI should permit professional investors to engage easily in this type of hedging activity.

The Exchange believes that the Fund, and Actively Managed Solution Shares generally, will provide investors with a greater choice of active portfolio managers and active strategies through which they can manage their assets in an ETF structure. This greater choice of active asset management is expected to be similar to the diversity of active managers and strategies available to mutual fund investors. Unlike mutual fund investors, investors in Actively Managed Solution Shares would also accrue the benefits derived from the ETF structure, such as lower fund costs, tax efficiencies, intraday liquidity, and pricing that reflects current market conditions rather than end-of-day pricing.

The Adviser represents that, unlike ETFs that publish their portfolios on a daily basis, the Fund, as Actively Managed Solution Shares, propose to allow for efficient trading of Shares through an effective Fund portfolio transparency substitute—Proxy Portfolio transparency—and daily publication of Proxy Portfolio Disclosures. The Adviser believes that this approach will provide an important benefit to investors by protecting the Fund from the potential for front-running of portfolio transactions and the potential for free-riding on Fund portfolio strategies, each of which could adversely impact the performance of the Fund.

The Exchange believes that Actively Managed Solution Shares will provide the platform for many more asset managers to launch ETFs, increasing the investment choices for consumers of actively managed funds, which should lead to a greater competitive landscape that can help to reduce the overall costs of active investment management for retail investors. Unlike mutual funds, Actively Managed Solution Shares would be able to use the efficient share settlement system in place for ETFs today, translating into a lower cost of maintaining shareholder accounts and processing transactions.

The Adviser represents that investors will also benefit because the Fund's operating costs, such as transfer agency costs, are generally lower in ETFs than in mutual funds. The Fund will have access to the identical clearing and settlement procedures now used by U.S. domiciled ETFs, and therefore, should experience many of the operational and cost efficiencies benefitting current ETF investors.

The Adviser represents further that in-kind Share creation/redemption orders will allow the Fund to enjoy overall transaction costs lower than those experienced by mutual funds. The Fund's in-kind Share creation and redemption process will facilitate and enhance active management strategies by generally limiting the portfolio manager's need to transact in a large volume of trades in order to maintain desired investment exposures. In addition, the Adviser represents that the Fund will receive tax efficiency benefits of the ETF structure because of in-kind Share creation and redemption activity.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of a series of Actively Managed Solution Shares that the NAV per Share of the Fund will be calculated daily and that the NAV will be made available to all market participants at the same time. Investors can also obtain the Fund's SAI, shareholder reports, and its Form N–CSR, Form N–PORT and Form N–CEN. The Fund's SAI and shareholder reports will be available free upon request from the Fund, and those documents and the Form N–CSR, Form N–PORT and Form N–CEN may be viewed on-screen or downloaded from the Commission's website. In addition, with respect to the Fund, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares will be available via the CTA high-speed line. The website for the Fund will include a form of the prospectus for the Fund that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.602–E (d)(2)(B), which sets forth circumstances under which Shares of the Fund will be halted. In addition, as noted above, investors will have ready access to the Proxy Portfolio Disclosures and quotation and last sale information for the Shares. The Shares will conform to the initial and continued listing criteria under proposed Rule 8.602–E.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to

[35] Price correlation trading is used throughout the financial industry. It is used to discover both trading opportunities to be exploited, such as currency pairs and statistical arbitrage, as well as for risk mitigation such as dispersion trading and beta hedging. These correlations are a function of differentials, over time, between one or multiple securities pricing. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging basket has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period, making corrections where warranted.

information regarding quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change would permit listing and trading of another type of actively-managed ETF that has characteristics different from existing actively-managed and index ETFs and would introduce additional competition among various ETF products to the benefit of investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–2019–95 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–2019–95. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2019–95 and should be submitted on or before January 24, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2019–28413 Filed 1–2–20; 8:45 am]

BILLING CODE 8011–01–P

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87862; File No. SR–CboeBYX–2019–025]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Interpretation and Policy .01 of Rule 2.4 To Allow the Exchange To Provide Annual Notification to Individual Members That Are Subject to Paragraph (b) of Rule 2.4

December 27, 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 December 20, 2019, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (''BYX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to amend Interpretation and Policy .01 of Rule 2.4 to allow the Exchange to provide annual notification to individual Members[5] that are subject to paragraph (b) of Rule 2.4. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

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 Interpretation and Policy .01 of Rule 2.4 to allow the Exchange to provide annual notification to individual Members that are subject to paragraph (b) of Rule 2.4, which requires certain Members to connect to the Exchange's backup systems and participate in functional and performance testing based on the prior calendar quarter's volume on the Exchange.

As background, Regulation Systems Compliance and Integrity (''Regulation SCI'') [6] applies to certain self-regulatory organizations (including the Exchange), alternative trading systems (''ATSs''), plan processors, and exempt clearing agencies (collectively, ''SCI entities''). Specifically, Rule 1004 of Regulation SCI states that each SCI entity shall establish standards for the designation of Members that are necessary for the maintenance of fair and orderly markets in the event of the activation of the business continuity and disaster recovery plans, designate such Members in scheduled functional and performance testing of the operation of such plans no less than once every 12 months, and coordinate the testing of such plans on an industry- or sector-wide basis with other SCI entities.

In order to comply with the coordination requirement among SCI entities, the Exchange has conducted the required operational testing in parallel with the industry-led testing program coordinated by the Securities Industry and Financial Markets Association (''SIFMA''), which occurs on an annual basis. Currently, Interpretation and Policy .01 to Rule 2.4 requires the Exchange to identify and provide notice to designated Members under paragraph (b) on a quarterly basis based on trade activity during the previous quarter on the Exchange. Any Member that receives such notice is required to participate in the next annual functional and performance testing, which generally occurs in October. As such, a Member that receives notice in the third and/or fourth quarter of the preceding year or the first and/or second quarters of the current year will be required to participate in the annual functional and performance testing. As a result, Members would be notified in October, January, April, and/or July of their requirement to connect to the Exchange's backup systems and participate in functional and performance testing scheduled for October, which means that certain Members receive notification of their designation and requirement to connect and participate in functional and performance testing only three months prior to the scheduled operational and functional testing. Further, a Member that had been designated in any of the four preceding quarters would be required to participate in the functional and performance testing even if that Member did not meet the designation requirements of subparagraphs (b)(1) in the most recent quarter (*i.e.,* the second quarter).

As proposed, the amendment would allow the Exchange to identify designated Members based on trade activity during a single quarter for a given year, and to issue one annual notification to the designated Members in preparation for the anticipated functional and performance testing, which generally occurs in October. As such, the proposal would: (i) Simplify the Member designation and notice process; (ii) allow the Exchange to require only those Members that meet the volume requirements under Rule 2.4(b)(1) in the designated quarter to participate in such testing; (iii) provide the Exchange with greater flexibility as to the timing that it would provide Members with notice of their designation pursuant to paragraph (b), but still require the Exchange to provide such notice at least three months prior to the anticipated functional and performance testing; and (iv) strengthen the Exchange's coordination with other SCI entities by harmonizing the frequency of such notifications with other self-regulatory organizations, which do not provide quarterly notifications of Member designations.[7] As the proposed amendment provides the Exchange with greater flexibility in selecting the relevant quarter's trade data for which the designated Members will be identified, the designated Members may be identified based on more recent trading activity, rather than trade activity that potentially occurred more than one year prior to such testing and thus would more accurately represent the Members who met the requirements set forth in paragraph (b)(1) of Rule 2.4.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes the proposal is consistent with the Act because, as noted above, the proposal would allow the Exchange to identify designated Members based on activity during a single quarter for a given year and to issue one annual notification to the designated Members in preparation for the anticipated functional and performance testing, which generally occurs in October, which the Exchange believes would: (i) Simplify the Member designation and notice process; (ii) allow the Exchange to require only those Members that meet the requirements under Rule 2.4(b)(1) in the designated quarter to participate in such testing; (iii) provide the Exchange with greater flexibility as to the timing that it would provide Members with notice of their designation pursuant to paragraph (b), but still require the Exchange to provide such notice at least three months prior to the anticipated functional and performance testing; and (iv) strengthen the Exchange's coordination with other SCI entities by harmonizing the frequency of such notifications with other self-regulatory organizations, which do not provide quarterly notifications of Member designations. The proposed amendment will harmonize Exchange rules with those of other self-regulatory organizations in furtherance of the coordination of testing among SCI entities required by Rule 1004(c) of Regulation SCI. As set forth in Regulation SCI, ''SROs have the

[6] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (''SCI Adopting Release'').

[7] *See* Cboe Exchange, Inc. (''Cboe'') Rule 5.24, which states ''[Cboe] provides [ ] Trading Permit Holders with reasonable advance notice that they must participate in the testing described in paragraph (b) of this Rule 5.24.'' *See also* New York Stock Exchange (''NYSE'') Rule 49(b)(4), which states ''[a]t least three (3) months prior to a scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans, the Exchange will . . . notify those member organizations that are required to participate based on such criteria.''

authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, 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.'' [8] The Exchange believes that the proposal is consistent with such authority and legal responsibility.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not a competitive proposal as it is intended to coordinate notification of Member participation requirements in the Exchange's testing of business continuity and disaster recovery plans with the annual industry-wide testing program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange states that a waiver of the operative delay is consistent with the protection of investors and the public interest because it would eliminate potential confusion across self-regulatory organizations and simplify and clarify the process of notification to designated Members pursuant to paragraph (b) of Rule 2.4. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBYX–2019–025 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2019–025. 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–2019–025 and should be submitted on or before January 24, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2019–28361 Filed 1–2–20; 8:45 am]

BILLING CODE 8011–01–P

[8] *See* supra note 6.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Wednesday, January 8, 2020.

PLACE: The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: December 31, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–28480 Filed 12–31–19; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87863; File No. SR–CboeBZX–2019–109]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List Shares of the ARK Genomic Revolution ETF and ARK Autonomous Technology and Robotics ETF Under Rule 14.11(i), Managed Fund Shares

December 27, 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 December 23, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a rule change to list shares of the ARK Genomic Revolution ETF and ARK Autonomous Technology and Robotics ETF under Rule 14.11(i) (''Managed Fund Shares''), which are currently listed on NYSE Arca, Inc. (''Arca''). The shares of the Fund are referred to herein as the ''Shares.'' The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[5]

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list shares of the ARK Genomic Revolution ETF and ARK Autonomous Technology and Robotics ETF under Rule 14.11(i) (''Managed Fund Shares'') (each, a ''Fund'' and, collectively, the ''Funds''), which governs the listing and trading of Managed Fund Shares on the Exchange.[6] The Exchange notes that the Commission previously approved a proposal to list and trade shares of the Funds on NYSE Arca, Inc. (''Arca'').[7] This proposal is substantively identical to the Prior Proposal and the issuer represents that all material representations contained within the Prior Proposal remain true. The Exchange notes that the Prior Proposal included two additional funds (the ARK Innovation ETF and the ARK Web x.0 ETF). The Exchange also notes that the Prior Proposal refers to the ARK Industrial Innovation ETF, which was subsequently renamed to the ARK Autonomous Technology and Robotics ETF. As further described below, the Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares.

The Shares will be offered by ARK ETF Trust (the ''Trust''), which is organized as a Delaware statutory trust and is registered with the Commission as an open-end management investment company.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] The Commission approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[7] *See* Securities Exchange Act Release No. 72641 (July 18, 2014), 79 FR 43108 (July 18, 2014) (SR–NYSEArca–2014–64) (the ''Prior Proposal'').

Description of the Shares and the Fund

ARK Investment Management LLC (''Adviser'') serves as the investment adviser to the Funds. Foreside Fund Services, LLC (''Distributor'') is the principal underwriter and distributor of the Funds' Shares. The Bank of New York Mellon serves as administrator, custodian and transfer agent (''Administrator'').

Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[8] In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not registered as a broker-dealer and is not affiliated with a broker-dealer. In the event that (a) the Adviser or any sub-adviser becomes, or becomes newly affiliated with, a broker-dealer, or (b) any new adviser or sub-adviser is, or becomes affiliated with, a broker-dealer, it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

ARK Genomic Revolution ETF

According to the Registration Statement, the ARK Genomic Revolution ETF's investment objective is long-term growth of capital.

According to the Registration Statement, the Fund will invest under Normal Market Conditions[9] primarily (at least 80% of its assets) in domestic and foreign equity securities of companies that are relevant to the Fund's investment theme of genomics. Companies relevant to this theme are those that are focused on and are expected to benefit from extending and enhancing the quality of human and other life by incorporating technological and scientific developments, improvements and advancements in genetics into their business, such as by offering new products or services that rely on genetic sequencing, analysis, synthesis or instrumentation. These companies may include ones that develop, produce, manufacture or significantly rely on bionic devices, bio-inspired computing, bioinformatics, molecular medicine, and agricultural biology.

In selecting companies that the Adviser believes are relevant to a particular investment theme, it will seek to identify, using its own internal research and analysis, companies capitalizing on disruptive innovation or that are enabling the further development of a theme in the markets in which they operate. The Adviser's internal research and analysis will leverage insights from diverse sources, including external research, to develop and refine its investment themes and identify and take advantage of trends that have ramifications for individual companies or entire industries. The Adviser will use both ''top down'' (macro-economic and business cycle analysis) and ''bottom up'' (valuation, fundamental and quantitative measures) approaches to select investments for the Fund.

Under Normal Market Conditions, substantially all of the Fund's assets will be invested in equity securities, including common stocks, partnership interests, business trust shares and other equity investments or ownership interests in business enterprises.[10]

According to the Registration Statement, the Fund's investments will include issuers of micro-, small-, medium- and large-capitalizations. The Fund's investments in foreign equity securities will be in both developed and emerging markets.[11]

According to the Registration Statement, the Fund will be concentrated in issuers in any industry or group of industries in the health care sector. Issuers in the health care sector include manufacturers and distributors of health care equipment and supplies, owners and operators of health care facilities, health maintenance organizations and managed health care plans, health care providers and issuers that provide services to health care providers.

ARK Autonomous Technology and Robotics ETF

According to the Registration Statement, the ARK Autonomous Technology and Robotics ETF's investment objective is long-term growth of capital.

According to the Registration Statement, the Fund will invest under Normal Market Conditions primarily (at least 80% of its assets) in domestic and foreign equity securities of companies that are relevant to the Fund's investment theme of disruptive innovation. Companies relevant to this theme are those that are expected to focus on and benefit from the development of new products or services, technological improvements and advancements in scientific research related to, among other things, disruptive innovation in energy (''energy transformation companies''),

[8] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[9] As defined in Rule 14.11(i)(3)(E), the term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[10] According to the Adviser, at least 90% of the Fund's investments in equity securities (including Global Depositary Receipts (''GDRs''), American Depositary Receipts (''ADRs''), rights, warrants and preferred securities, discussed under ''Other Investments,'' below) will be in securities that trade in markets that are members of the Intermarket Surveillance Group (''ISG'') or are parties to a comprehensive surveillance sharing agreement with the Exchange.

[11] The Adviser generally considers emerging market countries to be developing market countries whose gross domestic product per person is classified below ''high income'' by the World Bank (''Emerging Markets''). Investments in Emerging Markets equity securities will not exceed 20% of a Fund's total assets.

automation and manufacturing (''automation transformation companies''), artificial intelligence (''artificial intelligence companies''), materials, and transportation.[12]

According to the Registration Statement, in selecting companies that the Adviser believes are relevant to a particular investment theme, it will seek to identify, using its own internal research and analysis, companies capitalizing on disruptive innovation or that are enabling the further development of a theme in the markets in which they operate. The Adviser's internal research and analysis will leverage insights from diverse sources, including external research, to develop and refine its investment themes and identify and take advantage of trends that have ramifications for individual companies or entire industries. The Adviser will use both ''top down'' (macro-economic and business cycle analysis) and ''bottom up'' (valuation, fundamental and quantitative measures) approaches to select investments for the Fund.

Under Normal Market Conditions, substantially all of the Fund's assets will be invested in equity securities, including common stocks, partnership interests, business trust shares and other equity investments or ownership interests in business enterprises.[13]

According to the Registration Statement, the Fund's investments will include issuers of micro-, small-, medium- and large-capitalizations. The Fund's investments in foreign equity securities will be in both developed and Emerging Markets.

According to the Registration Statement, the Fund will be concentrated in issuers in any industry or group of industries in the industrials [14] and information technology sectors, although it will not concentrate in any specific industry.[15]

Other Investments

While each Fund will invest, under Normal Market Conditions, primarily in the equity securities described above, each Fund may invest in other investments, as described below. Under Normal Market Conditions, such other investments will not exceed 20% of a Fund's assets.

According to the Registration Statement, each Fund may invest in the securities of open-end or closed-end investment companies, subject to applicable limitations under the 1940 Act. A Fund's investment in other investment companies may include shares of exchange traded funds registered under the 1940 Act (''ETFs''),[16] closed-end investment companies (which include business development companies), unit investment trusts, and other open-end investment companies. In addition, the Funds may invest in other exchange-traded products (''ETPs'') such as commodity pools,[17] or other entities that are traded on an exchange.

In addition, according to the Registration Statement, each Fund may use derivative instruments. Specifically, the Funds may use options, futures, swaps and forwards, for hedging or risk management purposes or as part of its investment practices. Derivative instruments are contracts whose value depends on, or is derived from, the value of an underlying asset, reference rate or index. These underlying assets, reference rates or indices may be any one of the following: Stocks, interest rates, currency exchange rates and stock indices.

The options in which the Funds may invest may be exchanged-traded or OTC. The exchange-traded options in which the Funds may invest will trade on markets that are members of the ISG or parties to a comprehensive surveillance sharing agreement with the Exchange. The futures in which the Funds may invest will be exchange-traded. Each Fund will not invest more than 10% of its assets in futures that trade in markets that are not members of the ISG or parties to a comprehensive surveillance sharing agreement with the Exchange. The swaps in which the Funds will invest may be cleared swaps or non-cleared. The Funds will collateralize their obligations with liquid assets consistent with the 1940 Act and interpretations thereunder.

The Funds will only enter into transactions in derivative instruments with counterparties that the Adviser reasonably believes are capable of performing under the contract and will post as collateral as required by the counterparty. The Funds will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser will evaluate the creditworthiness of counterparties on a regular basis. In addition to information provided by credit agencies, the Adviser will review approved counterparties using various factors, which may include the counterparty's reputation, the Adviser's past experience with the counterparty and the price/market actions of debt of the counterparty.

According to the Registration Statement, the Funds may invest in currency forwards. A currency forward transaction is a contract to buy or sell a specified quantity of currency at a specified date in the future at a specified price which may be any fixed number of days from the date of the contract agreed upon by the parties, at a price set at the time of the contract. Currency forward contracts may be used to increase or reduce exposure to currency price movements.

[12] According to the Registration Statement, the Adviser will consider a company to be an energy transformation company if it seeks to capitalize on innovations or evolutions in: (i) Ways that energy is stored or used; (ii) the discovery, collection and/or implementation of new sources of energy, including unconventional sources of oil or natural gas and/or (iii) the production or development of new materials for use in commercial applications of energy production, use or storage. The Adviser will consider a company to be an automation transformation company if it is focused on man capitalizing on the productivity of machines, such as through the automation of functions, processes or activities previously performed by human labor or the use of robotics to perform other functions, activities or processes. The Adviser will consider a company to be an artificial intelligence (''AI'') company if it (i) designs, creates, integrates, or delivers robotics, autonomous technology, and/or AI in the form of products, software, or systems; (ii) develops the building block components for robotics, autonomous technology, or AI, such as advanced machinery, semiconductors and databases used for machine learning; (iii) provides its own value-added services on top of such building block components, but are not core to the company's product or service offering; and/or (iv) develops computer systems that are able to perform tasks that normally require human intelligence, such as visual perception, speech recognition, decision-making, and translation between languages.

[13] According to the Adviser, at least 90% of the Fund's investments in equity securities (including GDRs, ADRs, rights, warrants and preferred securities, discussed under ''Other Investments,'' below) will be in securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

[14] According to the Registration Statement, the industrials sector includes companies engaged in the manufacture and distribution of capital goods, such as those used in defense, construction and engineering, companies that manufacture and distribute electrical equipment and industrial machinery and those that provide commercial and transportation services and supplies.

[15] According to the Registration Statement, the information technology sector includes software developers, providers of information technology consulting and services and manufacturers and distributors of computers, peripherals, communications equipment and semiconductors.

[16] For purposes of this filing, ETFs, which will be listed on a national securities exchange, shall mean the following: Investment Company Units (as described in BZX Rule 14.11(c)); Portfolio Depositary Receipts (as described in BZX Rule 14.11 (b)); and Managed Fund Shares (as described in BZX Rule 14.11(i)).

[17] For purposes of this filing, ETPs shall mean Trust Issued Receipts (as described in BZX Rule 14.11(f)); Commodity-Based Trust Shares (as described in BZX Rule 14.11(e)(4)); Currency Trust Shares (as described in BZX Rule 14.11(e)(5)); Commodity Index Trust Shares (as described in BZX Rule 14.11(e)(6)); and Trust Units (as described in BZX Rule 14.11(e)(9)).

According to the Registration Statement, the Funds may enter into futures contracts and options, including options on futures contracts. Futures contracts generally provide for the future sale by one party and purchase by another party of a specified instrument, index or commodity at a specified future time and at a specified price. Futures contracts are standardized as to maturity date and underlying instrument and are traded on futures exchanges. An option is a contract that provides the holder the right to buy or sell shares or futures at a fixed price, within a specified period of time.

According to the Registration Statement, the Funds may invest in participation notes (''P-Notes''). P-Notes are issued by banks or broker-dealers and are designed to offer a return linked to the performance of a particular underlying equity security or market. P-Notes can have the characteristics or take the form of various instruments, including, but not limited to, certificates or warrants.

According to the Registration Statement, each Fund may invest in repurchase agreements with commercial banks, brokers or dealers and to invest securities lending cash collateral. A repurchase agreement is an agreement under which a Fund acquires a money market instrument from a seller, subject to resale to the seller at an agreed upon price and date.

According to the Registration Statement, the Funds may invest in structured notes. A structured note is a derivative security for which the amount of principal repayment and/or interest payments is based on the movement of one or more ''factors.'' These factors include, but are not limited to, currency exchange rates, interest rates (such as the prime lending rate or LIBOR), referenced bonds and stock indices.

Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid investments that are assets (calculated at the time of investment), as deemed ''illiquid'' by the Adviser under the 1940 Act.[18] Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid investments that are assets.

Each Fund will be classified as a ''non-diversified'' investment company under the 1940 Act[19] and therefore may concentrate its investments in any particular industry or group of industries, such that: (i) ARK Genomic Revolution ETF will concentrate in securities of issuers having their principal business activities in any industry or group of industries in the health care sector; and (ii) ARK Autonomous Technology and Robotics ETF will concentrate in securities of issuers having their principal business activities in any industry or group of industries in the industrials sector or the information technology sector.[20] Each Fund will consider an issuer to have its ''principal business activities'' in an industry or group of industries if the issuer derives more than 50% of its revenues from a business considered to be a part of such industry or group of industries according to a third party's industry classification system or that of the Adviser.

The Funds intend to qualify for and to elect treatment as a separate regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code.[21]

According to the Registration Statement, each Fund may take a temporary defensive position (investments in cash or cash equivalents) in response to adverse market, economic, political or other conditions.[22] Cash equivalents shall mean short-term high quality debt securities and money market instruments such as commercial paper, certificates of deposit, bankers' acceptances, U.S. Government securities, repurchase agreements and bonds that are rated BBB or higher and shares of short-term fixed income or money market funds.

Initial and Continued Listing

The Shares will be subject to BZX Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[23] A minimum of 100,000 Shares will be outstanding at the commencement of listing on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Each Fund's investments will be consistent with its respective investment objective in accordance with the 1940 Act and will not be used to enhance leverage. Each Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs or 3Xs) of the Fund's broad-based securities market index (as defined in Form N–1A).[24] All statements and representations made in this filing regarding (a) the description of each Fund's portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) the dissemination and availability of the intraday indicative value and reference assets, or (d) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

Creation and Redemption of Shares

According to the Registration Statement, each Fund will issue, sell and redeem Shares only in aggregations of a specified number of Shares (each, a ''Creation Unit'') on a continuous basis at its net asset value (''NAV'') next determined after receipt, on any business day, of an order in proper form. A Creation Unit currently consists of 50,000 Shares.

[18] *See* Rule 22e–4(b)(1)(iv), which prohibits a fund from acquiring any illiquid investment if, immediately after the acquisition, the fund would have invested more than 15% of its net assets in illiquid investments that are assets. *See also,* Investment Company Act Release No. 32315 (Oct. 13, 2016), 81 FR 82142 (Nov. 18, 2016) (adopting Rule 22e–4 under the 1940 Act). Prior to the adoption of Rule 22e–4 in 2016, the Commission had long-standing guidelines that required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also* Investment Company Act Release Nos. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); and Investment Company Act Release 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A).

[19] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[20] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[21] 26 U.S.C. 851 *et seq.*

[22] According to the Adviser, circumstances under which a Fund may temporarily depart from its normal investment process include, but are not limited to, extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[23] *See* 17 CFR 240.10A–3.

[24] Each Fund's broad-based securities market index will be identified in a future amendment to the Registration Statement following each Fund's first full calendar year of performance.

According to the Registration Statement, the consideration for a purchase of Creation Units will generally consist of an in-kind deposit of specified securities that would be consistent with the relevant Fund's investment objective and portfolio (''Deposit Instruments'') and an amount of cash (''Cash Amount'') or, as permitted or required by the Fund, of cash. The Cash Amount together with the Deposit Instruments, as applicable, are referred to as the ''Creation Deposit,'' which represents the minimum initial and subsequent investment amount for Creation Units. The Cash Amount represents the difference between the NAV of a Creation Unit and the market value of Deposit Instruments.

According to the Registration Statement, the Trust reserves the right to accept a basket of securities or cash that differs from Deposit Instruments or to permit or require the substitution of an amount of cash (*i.e.,* a ''cash in lieu'' amount) to be added to the Cash Amount to replace any Deposit Instrument which may, among other reasons, not be available in sufficient quantity for delivery, not be permitted to be re-registered in the name of the Trust as a result of an in-kind creation order pursuant to local law or market convention or which may not be eligible for transfer through the clearing process, or which may not be eligible for trading by a participating party.

According to the Registration Statement, all orders to create Creation Units must be received by the Distributor no later than the end of Regular Trading Hours [25] on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of the relevant Fund as determined on such date.

According to the Registration Statement, Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor, only on a business day and only through an authorized participant.

According to the Registration Statement, unless cash redemptions are permitted or required for a Fund, the redemption proceeds for a Creation Unit will generally consist of in-kind securities and instruments (''Redemption Instruments'') as announced by the Administrator on the business day of the request for redemption, plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Redemption Instruments, less the applicable fees. Should the Redemption Instruments have a value greater than the NAV of the Shares being redeemed, a compensating cash payment to the Trust equal to the differential plus the applicable redemption transaction fee will be required to be arranged for by or on behalf of the redeeming shareholder. Each Fund reserves the right to honor a redemption request by delivering a basket of securities or cash that differs from the Redemption Instruments.

According to the Registration Statement, an order to redeem Creation Units of a Fund will be deemed received on the transmittal date if such order is received by the Distributor not later than 4:00 p.m. E.T. on such transmittal date and all other procedures are properly followed; such order will be effected based on the NAV of a Fund as next determined.

According to the Registration Statement, the Administrator, through the NSCC, will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. E.T.), (a) the list of the names and the required number of each Deposit Instrument to be included in the current Creation Deposit (based on information at the end of the previous business day) as well as the Cash Amount for each Fund and (b) the Redemption Instruments that will be applicable to redemption requests received in proper form on that day. In addition, the Administrator, through the NSCC, also makes available on a continuous basis throughout the day, the Intraday Indicative Value.[26]

Availability of Information

The Funds' website (*www.ARK-Funds.com*) will include a form of the prospectus for the Funds that may be downloaded. The Funds' website will include additional quantitative information updated on a daily basis, including, for each Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[27] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares during Regular Trading Hours on the Exchange, the Adviser will disclose on its website the Disclosed Portfolio, as defined in BZX Rule 14.11(i)(3)(B), that will form the basis for each Fund's calculation of NAV at the end of the business day.[28]

On a daily basis, the Adviser will disclose for each portfolio security and other financial instrument of the Funds the following information on the Funds' website: Ticker symbol (if applicable), name of security and/or financial instrument, number of shares, if applicable, and dollar value of financial instruments and securities held in the portfolio, and percentage weighting of the security and financial instrument in the portfolio. The website information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities, if applicable, required to be delivered in exchange for a Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of BZX via NSCC. The basket will represent one Creation Unit of the relevant Fund.

Investors will also be able to obtain the Trust's Statement of Additional Information (''SAI''), the Funds' Shareholder Reports, and the Trust's Form N–CSR and Form N–CEN. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–CEN may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information

[25] Regular Trading Hours are 9:30 a.m. to 4:00 p.m. E.T.

[26] The Intraday Indicative Value calculations are estimates of the value of the Funds' NAV per Share using market data converted into U.S. dollars at the current currency rates. The Intraday Indicative Value price is based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the Intraday Indicative Value and the market price may occur. This should not be viewed as a ''real-time'' update of the NAV per Share of the Funds, which is calculated only once a day.

[27] The Bid/Ask Price of each Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the relevant Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Funds and their service providers.

[28] Under accounting procedures followed by the Funds, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Funds will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares and underlying securities that are exchange listed, including equities (including common stock, partnership interests and business trust shares, as well as depositary receipts (excluding ADRs traded OTC and GDRs), rights, warrants, preferred securities, ETFs and ETPs (collectively, ''Exchange Traded Equities'')), will be available via the Consolidated Tape Association (''CTA'') high-speed line and from the securities exchange on which they are listed. Quotation and last sale information for GDRs will be available from the securities exchange on which they are listed. Information relating to futures and options on futures also will be available from the exchange on which such instruments are traded. Information relating to exchange-traded options will be available via the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing services will be available for ADRs traded OTC, investment company securities (other than ETFs), including closed end investment companies, unit investment trusts and open-end investment companies, non-exchange-traded derivatives, including forwards, swaps and certain options, and fixed income securities, including P-Notes, structured notes, debt securities, money market instruments such as commercial paper, certificates of deposit, bankers' acceptances, U.S. Government securities, repurchase agreements, bonds and convertible securities, and shares of short-term fixed income or money market funds. Pricing information regarding each asset class in which the Funds will invest is generally available through nationally recognized data services providers through subscription agreements.

In addition, for each Fund, an estimated value, defined in BZX Rule 14.11(i)(3)(C) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of a Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[29] In addition, the quotations of certain of the Fund's holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States or if updated prices cannot be ascertained.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Funds that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds.[30] Trading in Shares of the Funds will be halted if the circuit breaker parameters in BZX Rule 11.18 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Funds; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to BZX Rule 11.18, which sets forth circumstances under which Shares of a Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 14.11(i)(2)(C), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares.

The Exchange will communicate as needed regarding trading in the Shares and underlying Exchange Traded Equities, exchange traded options and futures with other markets and other entities that are members of the ISG, and the Exchange, or FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and underlying Exchange Traded Equities, exchange traded options and futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and underlying Exchange Traded Equities, exchange traded options and futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[31] At least 90% of each Fund's investments in equity securities (including GDRs and ADRs) will be in securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. The exchange-traded options in which the Funds may invest will trade on markets that are members of the ISG or parties to a comprehensive surveillance sharing agreement with the Exchange. Each Fund will not invest more than 10% of its assets in futures that trade in markets that are not members of the ISG or parties to a comprehensive surveillance sharing agreement with the Exchange.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of listing on the Exchange, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how

[29] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association (''CTA'') or other data feeds.

[30] *See* BZX Rule 11.18.

[31] For a list of the current members of ISG, see *www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for each Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening [32] and After Hours Trading Sessions [33] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Funds for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that each Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of each of the Funds and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on each Fund's website. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in each Fund's Registration Statement.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [34] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange notes that the Commission has previously approved the listing and trading of the Shares.[35] The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the applicable initial and continued listing criteria in BZX Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser to the investment company shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Exchange will communicate as needed regarding trading in the Shares and underlying Exchange Traded Equities, exchange traded options and futures with other markets and other entities that are members of the ISG, and may obtain trading information regarding trading in the Shares and underlying Exchange Traded Equities, exchange traded options and futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and Exchange Traded Equities, exchange traded options and futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. At least 90% of each Fund's investments in equity securities (including GDRs and ADRs) will be in securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. The exchange-traded options in which the Funds may invest will trade on markets that are members of the ISG or parties to a comprehensive surveillance sharing agreement with the Exchange. Each Fund will not invest more than 10% of its assets in futures that trade in markets that are not members of the ISG or parties to a comprehensive surveillance sharing agreement with the Exchange. Additionally, all statements and representations made in this filing regarding (a) the description of each Fund's portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) the dissemination and availability of the intraday indicative value and reference assets, or (d) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

The Adviser is not registered as a broker-dealer and is not affiliated with a broker-dealer. In the event (a) the Adviser or any sub-adviser becomes, or becomes newly affiliated with, a broker-dealer, or (b) any new adviser or sub-adviser is, or becomes affiliated with, a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser consistent with Commission guidance. Each Fund's investments will be consistent with its respective investment objective and will not be used to enhance leverage.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Funds and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Regular Trading Hours. On each business day, before commencement of trading in Shares in the Regular Trading Hours on the Exchange, the Adviser will disclose on its website the Disclosed Portfolio that will form the basis for the Funds' calculation of NAV at the end of the business day.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Quotation and last sale information for the Shares and underlying securities that are exchange listed, including Exchange Traded Equities, will be available via the CTA high-speed line and from the securities exchange on which they are listed. Quotation and last sale information for GDRs will be available from the

[32] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. E.T.

[33] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. E.T.

[34] 15 U.S.C. 78f(b)(5).

[35] *See* Securities Exchange Act Release No. 72641 (July 18, 2014), 79 FR 43108 (July 18, 2014) (SR–NYSEArca–2014–64).

securities exchange on which they are listed. Information relating to futures and options on futures also will be available from the exchange on which such instruments are traded.

Information relating to exchange-traded options will be available via the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing services will be available for ADRs traded OTC, investment company securities (other than ETFs), including closed end investment companies, unit investment trusts and open-end investment companies, non-exchange-traded derivatives, including forwards, swaps and certain options, and fixed income securities, including P-Notes, structured notes, debt securities, money market instruments such as commercial paper, certificates of deposit, bankers' acceptances, U.S. Government securities, repurchase agreements, bonds and convertible securities, and shares of short-term fixed income or money market funds. Pricing information regarding each asset class in which the Funds will invest is generally available through nationally recognized data services providers through subscription agreements. The website for the Funds will include a form of the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of listing on the Exchange, the Exchange will inform its Members in an Information Circular of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted under the conditions specified in BZX Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to BZX Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. As noted above, investors will also have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Funds' holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather, will facilitate the transfer from Arca and listing of additional actively-managed exchange-traded products on the Exchange, which will enhance competition among listing venues, to the benefit of issuers, investors, and the marketplace more broadly.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [36] and Rule 19b–4(f)(6) thereunder.[37]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [38] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [39] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the 30-day operative delay would allow the Shares to be listed on the Exchange in December 2019, which would allow the Funds to avoid paying 2020 listing fees to Arca, fees which would otherwise be applied at the beginning of January 2020. Further, the Commission notes that the proposal, with respect to the Funds, is substantively identical to the Prior Proposal,[40] and the issuer represents that all material representations contained within the Prior Proposal remain true. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[41]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–109 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[36] 15 U.S.C. 78s(b)(3)(A).

[37] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[38] 17 CFR 240.19b–4(f)(6).

[39] 17 CFR 240.19b–4(f)(6)(iii).

[40] *See supra* note 7.

[41] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–109. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–109, and should be submitted on or before January 24, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2019–28362 Filed 1–2–20; 8:45 am]

BILLING CODE 8011–01–P

[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, January 8, 2020 at 10:00 a.m.

PLACE: The meeting will be held in Auditorium LL–002 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will begin at 10:00 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED: The subject matter of the Open Meeting will be:

• The Commission will consider whether to issue for public comment a proposed order that would require self-regulatory organizations to propose a single, new national market system (NMS) plan that would increase transparency and address inefficiencies, conflicts of interest and other issues presented by the current governance structure of the three NMS plans that govern the public dissemination of real-time, consolidated equity market data for NMS stocks.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Vanessa A. Countryman, Office of the Secretary, at (202) 551–5400.

Dated: December 31, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–28540 Filed 12–31–19; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87861; File No. SR–LTSE–2019–05]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Membership Waive-in Process for FINRA Members

December 27, 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 December 20, 2019, Long-Term Stock Exchange, Inc. (''LTSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

LTSE proposes a rule change to adopt ''Special Application Procedures'' for Exchange applicants that are already FINRA members and to modify the Membership Application form to incorporate these new procedures and to more generally align the form to be consistent with other national securities exchanges.

The text of the proposed rule change is available at the Exchange's website at *https://longtermstockexchange.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 2.170 prescribes the application procedures for membership or to become an associated person of a member. The Exchange is proposing to establish a new paragraph (b), entitled ''Special Application Procedures for Applicants that are FINRA Members.''[3] Specifically, the proposed rule change states that such an applicant will have the option to ''waive-in'' to become an Exchange Member and to register with the Exchange all persons associated with it whose registrations FINRA has approved (in categories recognized by the Exchange's rules). The proposed rule change defines the term ''waive-in'' to mean that the Exchange will rely substantially upon FINRA's prior determination to approve the applicant for FINRA membership when the

[3] The proposed rule change is modeled on a similar change adopted by the Nasdaq Stock Market LLC. *See* Securities Exchange Act Release No. 34–85513 (April 4, 2019), 84 FR 14429 (April 10, 2019).

Exchange evaluates the applicant for Exchange membership. That is, the Exchange will normally permit a FINRA member to waive-into Exchange membership without conducting an independent examination of the applicant's qualifications for membership on the Exchange, provided that the Exchange is not otherwise aware of any basis set forth in Rule 2.160 to deny or condition approval of the application. Additionally, implementation of the waive-in application process is facilitated by and within the scope of the regulatory services agreement between LTSE and FINRA; however, in all cases, LTSE will make the final determination as to whether or not to approve an applicant.

Procedurally, the proposed rule change states that a FINRA member that wishes to waive-into Exchange membership must do so by submitting to the Exchange an application form designated by the Exchange. The Exchange, in turn, will act upon a duly submitted waive-in application by promptly notifying, in writing, the applicant of the Exchange's determination.[4] Finally, the proposed rule change states that a decision issued under this provision shall have the same effectiveness as set forth in renumbered paragraph (d) of Rule 2.170 and shall be subject to the same procedures as those for denials of full applications as set forth in renumbered paragraphs (e) and (f) of Rule 2.170.

The Exchange does not propose any additional changes to Rule 2.170, other than to re-designate paragraphs in the rule to account for this new paragraph (b). Additionally, cross-references to exact paragraphs of Rule 2.170 in Supplementary Material .02 to Rule 5.160 and in Rule 9.522(a)(1) would be updated. Specifically, Supplementary Material .02 to Rule 5.160 would be updated to reference Rule 2.170(h) instead of Rule 2.170(g), and Rule 9.522(a)(1) would be updated to reference Rule 2.170(e) instead of 2.170(d).

The Exchange proposes to amend the Membership Application to add a waive-in attestation requirement for FINRA member firms who are using the ''Special Application Procedures.'' Additionally, the Exchange proposes ministerial amendments to the Membership Application to update the names of other self-regulatory organizations. Finally, the Exchange proposes to amend the Application Checklist and Instructions to: (i) Describe the availability of waive-in process; (ii) streamline the list of supporting documents required for waive-in applicants in accordance with the documents required by other national securities exchanges that provide for waive-in membership; and (iii) update the list of supporting documents required for non-waive-in applicants to conform to the list of materials to those required by other national securities exchanges.[5]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,[7] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. It also is consistent with Section 6(b)(7) of the Act[8] in that it provides for a fair procedure for denying Exchange membership to any person who seeks it, barring any person from becoming associated with an Exchange Member, and prohibiting or limiting any person with respect to access to services offered by the Exchange or a Member thereof, and Section 6(b)(2) of the Act[9] in that it provides, subject to Section 6(c) and the rules of the Exchange, that any broker or dealer may become a member of the Exchange.

As a general matter, the Exchange believes that the proposed rule change to amend its membership rules to provide for a ''waive-in'' process for FINRA is consistent with the requirements of Section 6(b)(5) of the Act in that it avoids duplication and unnecessary burdens associated with the membership application process while protecting investors and the public interest through the application of FINRA's membership requirements. The proposed rule change also will make compliance with the membership rules simpler and less burdensome for applicants by providing consistency to the standards by which a membership application is judged.

Finally, the proposed rule change is consistent with the requirements of Section 6(b)(7) of the Act in that it will not adversely impact the rights of applicants to appeal adverse Exchange decisions under this proposed Rule 2.170(b) or otherwise restrict access to membership in the Exchange; to the contrary, providing for a ''waive-in'' process promotes and facilitates membership in the Exchange in accordance with Section 6(b)(2) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange also does not expect that its proposed rule change will have any adverse competitive impact on its prospective membership. In particular, the proposed rule change will apply equally to all similarly situated applicants. Moreover, the Exchange does not expect that the proposed rule change will have an adverse impact on competition among exchanges for members; to the contrary, the Exchange anticipates that by clarifying its membership rules, and by making the Exchange's membership process less burdensome for applicants, the Exchange will enhance its competitive standing relative to other exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii)

[4] The Exchange does not propose to set a deadline because it will be relying on FINRA to review waive-in applications on its behalf and there are no timelines in the regulatory services agreement covering this function. However, FINRA routinely provides this service for clients and performs such services quickly. *See id.* at 14433 n14 (''[Nasdaq] proposes this [20 day] time frame to accommodate FINRA, which will review waive-in applications on behalf of the [Nasdaq] to verify that the Applicants are FINRA members in good standing. As a practical matter, [Nasdaq] expects to act on waive-in applications prior to the 20 day deadline.'').

[5] *See, e.g.,* Membership Application Form of Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc., *available at http://cdn.cboe.com/resources/membership/BATS_DirectEdge_Membership_Application.pdf.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(7).

[9] 15 U.S.C. 78f(b)(2).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[15] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange may afford the benefits of the ''waive-in'' membership process earlier and minimize the burden on FINRA members in applying to become a member of the Exchange. According to the Exchange, relieving this burden as soon as possible is important to enable LTSE to promptly establish the Exchange Board, of which Member Representative Directors shall be at least twenty percent of the Board.[16] For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LTSE–2019–05 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–LTSE–2019–05. 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–LTSE–2019–05, and should be submitted on or before January 24, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2019–28360 Filed 1–2–20; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See* First Amended and Restated Bylaws of Long-Term Stock Exchange, Inc., art. 3 § 2 (Composition of the Board).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87865; File No. SR–NYSEArca–2019–92]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Adopt NYSE Arca Rule 8.601–E To Permit the Listing and Trading of Managed Portfolio Securities and To List and Trade Four Series of Managed Portfolio Securities Issued by T. Rowe Price Exchange-Traded Funds, Inc. Under Proposed NYSE Arca Rule 8.601–E

December 30, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 23, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a new NYSE Arca Rule 8.601–E to permit the Exchange to list and trade Managed Portfolio Securities, which are shares of an actively managed exchange-traded fund (''ETF'') for which the portfolio is disclosed quarterly. In addition, the Exchange proposes to list and trade shares of the following Managed Portfolio Securities under proposed new NYSE Arca Rule 8.601–E: T. Rowe Price Blue Chip Growth ETF; T. Rowe Price Dividend Growth ETF; T. Rowe Price Growth Stock ETF; and T. Rowe Price Equity Income ETF. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add new NYSE Arca Rule 8.601–E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of Managed Portfolio Securities, which are securities issued by an actively managed open-end investment management company.

In addition to the above-mentioned proposed rule changes, the Exchange proposes to list and trade shares (''Shares'') of the following series of Managed Portfolio Securities under proposed new NYSE Arca Rule 8.601–E: T. Rowe Price Blue Chip Growth ETF, T. Rowe Price Dividend Growth ETF, T. Rowe Price Growth Stock ETF, and T. Rowe Price Equity Income ETF (each a ''Fund'' and, collectively, the ''Funds''). The investment adviser for the Funds will be T. Rowe Price Associates, Inc. (''Adviser'').

Proposed Listing Rules

Proposed Rule 8.601–E (a) provides that the Exchange will consider for trading, whether by listing or pursuant to UTP, Managed Portfolio Securities that meet the criteria of Rule 8.601–E.

Proposed Rule 8.601–E (b) provides that Rule 8.601–E is applicable only to Managed Portfolio Securities and that, except to the extent inconsistent with Rule 8.601–E, or unless the context otherwise requires, the rules and procedures of the Board of Directors will be applicable to the trading on the Exchange of such securities. Proposed Rule 8.601–E(b) provides further that Managed Portfolio Securities are included within the definition of ''security'' or ''securities'' as such terms are used in the Rules of the Exchange.

Proposed Rule 8.601–E(c) sets forth the applicable definitions related to Managed Portfolio Securities. Proposed Rule 8.601–E(c)(1) defines the term ''Managed Portfolio Security'' as a security that (a) is issued by a registered investment company (''Investment Company'') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number of shares equal to a Creation Unit, or multiples thereof, in return for a deposit by the purchaser of the ''Proxy Portfolio'' and/or cash, and (c) when aggregated in the same specified minimum number of shares, or multiples thereof, may be redeemed at a holder's request in return for a transfer of the Proxy Portfolio and/or cash to the holder by the issuer.

Proposed Rule 8.601–E(c)(2) defines the term ''Portfolio Positions'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value (''NAV'') at the end of the business day.

Proposed Rule 8.601–E(c)(3) defines the term ''Proxy Portfolio'' as a specified portfolio of securities, other financial instruments and/or cash that shall serve as the Managed Portfolio Security's identified hedging vehicle.

Proposed Rule 8.601–E(c)(4) defines the term ''Creation Unit'' as a specified minimum number of Managed Portfolio Securities.

Proposed Rule 8.601–E(c)(5) defines the term ''Reporting Authority'' in respect of a particular series of Managed Portfolio Securities as the Exchange, an institution, or a reporting service designated by the issuer or by the exchange that lists a particular series of Managed Portfolio Securities (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 Portfolio Positions, NAV, or other information relating to the issuance, redemption or trading of Managed Portfolio Securities. A series of Managed Portfolio Securities may have more than one Reporting Authority, each having different functions.

Proposed Rule 8.601–E(c)(6) defines the term ''normal market conditions'' as including, but not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

Proposed Rule 8.601–E(d) sets forth initial and continued listing criteria applicable to Managed Portfolio Securities. Proposed Rule 8.601–E(d)(1) provides that each series of Managed Portfolio Securities will be listed and traded on the Exchange subject to application of the following initial listing criteria. Proposed Rule 8.601–E(d)(1)(A) provides that, for each series of Managed Portfolio Securities, the Exchange will establish a minimum number of Managed Portfolio Securities required to be outstanding at the time of commencement of trading on the Exchange. In addition, proposed Rule 8.601–E(d)(1)(B) provides that the Exchange will obtain a representation from the issuer of each series of Managed Portfolio Securities that the NAV per share for the series will be calculated daily and that the NAV and the Portfolio Positions will be made publicly available to all market participants at the same time.[4] Proposed Rule 8.601–E(d)(1)(C) provides that all Managed Portfolio Securities shall have a stated investment objective, which shall be adhered to under normal market conditions.

Proposed Rule 8.601–E(d)(2) provides that each series of Managed Portfolio Securities will be listed and traded subject to application of the following continued listing criteria: Proposed Rule 8.601–E(d)(2)(A)(i) provides that Portfolio Positions shall be disseminated quarterly and shall be made publicly available to all market participants at the same time Proposed Rule 8.601–E(d)(2)(B)(i) provides that the Proxy Portfolio will be made publicly available each day. Proposed Rule 8.601–E(d)(2)(C) provides that the Exchange will maintain surveillance procedures for securities listed under Rule 8.601–E and consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) for, a series of Managed Portfolio Securities under any of the following circumstances: (i) If any of the continued listing requirements set forth

[4] NYSE Arca Rule 7.18–E(d)(2) (Trading Halts of Derivative Securities Products Listed on the NYSE Arca Marketplace) provides that, with respect to Derivative Securities Products listed on the NYSE Arca Marketplace for which a NAV is disseminated, if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the affected Derivative Securities Product on the NYSE Arca Marketplace until such time as the NAV is available to all market participants.

in Rule 8.601–E are not continuously maintained; (ii) if any of the statements or representations regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange listing rules, specified in the Exchange's rule filing pursuant to Section 19(b) of the Securities Exchange Act of 1934 to permit the listing and trading of a series of Managed Portfolio Securities, is not continuously maintained; or (iii) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

Proposed Rule 8.601–E(d)(2)(D) provides that if a series of Managed Portfolio Securities is trading on the Exchange pursuant to UTP, the Exchange will halt trading in that series as specified in Rule 7.18–E(d)(1). In addition, upon notification to the Exchange by the issuer of a series of Managed Portfolio Securities that the NAV with respect to a series of Managed Portfolio Securities is not disseminated to all market participants at the same time, the Exchange shall halt trading in such series until such time as the NAV is available to all market participants at the same time. The Exchange may also halt trading at the request of the investment adviser to a series of Managed Portfolio Securities upon notification to the Exchange that the securities representing 10% or more of the Portfolio Positions for such series do not have readily available market quotations, and during times of unusual market volatility where a significant portion of such series' Portfolio Positions are subject to a trading halt or have a last trade price that the investment adviser deems unreliable, if the investment adviser determines that it is in the best interest of such series.

Proposed Rule 8.601–E(d)(2)(E) provides that, upon termination of an Investment Company, the Exchange requires that Managed Portfolio Securities issued in connection with such entity be removed from Exchange listing.

Proposed Rule 8.601–E(d)(2)(F) provides that voting rights will be as set forth in the applicable Investment Company prospectus.

Proposed Rule 8.601–E(e) relates to limitation of Exchange liability and provides that neither the Exchange, the Reporting Authority, nor any agent of the Exchange will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current portfolio value; the current value of the portfolio of securities required to be deposited to the Investment Company in connection with issuance of Managed Portfolio Securities; the amount of any dividend equivalent payment or cash distribution to holders of Managed Portfolio Securities; NAV; or other information relating to the purchase, redemption, or trading of Managed Portfolio Securities, resulting from any negligent act or omission by the Exchange, the Reporting Authority or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

Proposed Commentary .01 to NYSE Arca Rule 8.601–E provides that the Exchange will file separate proposals under Section 19(b) of the Act before the listing and trading of a series of Managed Portfolio Securities. Proposed Commentary .01 further provides that all statements or representations contained in such rule filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Proposed Commentary .02 to NYSE Arca Rule 8.601–E provides that transactions in Managed Portfolio Securities will occur during the trading hours specified in NYSE Arca Rule 7.34–E(a).

Proposed Commentary .03 to NYSE Arca Rule 8.601–E provides that the Exchange will implement and maintain written surveillance procedures for Managed Portfolio Securities.

Proposed Commentary .04 to NYSE Arca Rule 8.601–E provides that, if the investment adviser to the Investment Company issuing Managed Portfolio Securities is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Personnel who make decisions on the Investment Company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio.[5]

Key Features of Managed Portfolio Securities

While funds issuing Managed Portfolio Securities will be actively-managed and, to that extent, will be similar to Managed Fund Shares listed and traded under NYSE Arca Rule 8.600–E,[6] Managed Portfolio Securities differ from Managed Fund Shares in the following important respects. First, in contrast to Managed Fund Shares, for which the fund's ''Disclosed Portfolio'' is required to be disseminated at least once daily,[7] the full portfolio holdings for a series of Managed Portfolio Securities will not be made available on a daily basis. Rather, the Portfolio Positions will be disclosed quarterly in accordance and in compliance with the portfolio holdings disclosure requirements applicable to other registered open-end funds, including traditional mutual funds.[8] Second, in connection with the creation and redemption of shares, such creation or redemption will be in a Creation Unit size and may be in exchange for an in-kind basket of securities, which will be

[5] The Exchange will propose applicable NYSE Arca listing fees for Managed Portfolio Securities in the NYSE Arca Equities Schedule of Fees and Charges in a separate proposed rule change.

[6] The Commission has previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 76871 (January 11, 2016), 81 FR 2261 (January 15, 2016) (SR–NYSEArca–2015–114) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of the Market Vectors Dynamic Put Write ETF under NYSE Arca Equities Rule 8.600); 86636 (August 12, 2019), 84 FR 42030 (August 16, 2019) (SR–NYSEArca–2018–98) (Notice of Filing of Amendment No. 4 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 4, to List and Trade Shares of the iShares Commodity Multi-Strategy ETF under NYSE Arca Rule 8.600–E).

[7] NYSE Arca Rule 8.600–E(c)(2) defines the term ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of NAV at the end of the Business Day. NYSE Arca Rule 8.600–E(d)(2)(B)(i) requires that the Disclosed Portfolio be disseminated at least once daily and be made available to all market participants at the same time.

[8] A mutual fund is required to file with the Commission Form N–CEN under the Investment Company Act of 1940 (''1940 Act'') within 75 days of the end of the fiscal year, and is required to file its complete portfolio schedules on a monthly basis on Form N–PORT under the 1940 Act within 30 days of the end of each month. These forms are available to the public on the Commission's website at *www.sec.gov.*

a fund's Proxy Portfolio with a value equal to the prior day's NAV, rather than the ''Disclosed Portfolio'' applicable to Managed Fund Shares. With respect to the Funds, Shares will generally be issued and redeemed primarily on an in-kind basis, but may include cash under certain circumstances as described in the ''Application,'' as described below.[9]

Hedging Vehicle and Portfolio Positions

The Proxy Portfolio is designed to serve as a pricing signal for low-risk arbitrage trades in shares of Managed Portfolio Securities generally. With respect to the Funds, in order to provide a hedging vehicle whose performance reliably and highly correlates to the NAV of the relevant Fund, and that is liquid and trades synchronously with the Shares of the Funds,[10] a Fund's Portfolio Positions will (a) be listed on an exchange and the primary trading session of such exchange will substantially overlap with the Exchange's Core Trading Session, as defined in Rule 7.34–E(a); (b) with respect to exchange-traded futures, be listed on a U.S. futures exchange; or (c) consist of cash and cash equivalents.

Consistent with these representations, each Fund will only invest in exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange synchronously with the Shares (''foreign common stocks''), ETFs,[11] exchange-traded notes (''ETNs''),[12] exchange-traded preferred stocks, exchange-traded American Depositary Receipts (''ADRs''),[13] exchange-traded real estate investment trusts, exchange-traded commodity pools, exchange-traded metals trusts, exchange-traded currency trusts and exchange-traded futures contracts[14] (collectively, ''exchange-traded instruments'') that trade synchronously with the Fund's Shares, as well as cash and cash equivalents.[15] For purposes of this filing, cash equivalents are short-term U.S. Treasury securities, government money market funds, and repurchase agreements.

With respect to the Funds, the Adviser will identify each Fund's Proxy Portfolio, which could be a broad-based securities index (*e.g.,* the S&P 500) or a Fund's recently disclosed portfolio holdings. Each Fund will consistently invest such that at least 80% of its total assets will overlap with the portfolio weightings in its identified Proxy Portfolio. Although the Adviser may change a Fund's Proxy Portfolio at any time, the Adviser currently does not expect to make such changes more frequently than quarterly (for example, in connection with the release of a Fund's portfolio holdings). The Adviser will publish a new Proxy Portfolio for a Fund only before the commencement of trading of such Fund's Shares on that ''Business Day'',[16] and the Adviser will not make intra-day changes to the Proxy Portfolio except to correct errors in the published Proxy Portfolio. For the reasons described below, the Adviser believes that each Fund's Proxy Portfolio will be a high-quality hedging vehicle, the value of which will provide arbitrageurs with a high quality pricing signal.

The Proxy Portfolio will not include any asset that is ineligible to be a Portfolio Position in the applicable Fund.

In addition, on each Business Day, before commencement of trading of Shares, the ''Portfolio Overlap'' (as defined below) will be published on each Fund's website. The Portfolio Overlap will be the percentage weight overlap between the prior Business Day's Proxy Portfolio's holdings compared to the holdings of the Fund that formed the basis for that Fund's calculation of NAV at the end of the prior Business Day.[17] In addition, each Fund will disclose the ''Daily Deviation'' (as defined below) between the Proxy Portfolio and a Fund daily, as well as ''Empirical Percentiles'' (as defined below), which are quantitative summaries of the Daily Deviation data for the last year. Each Fund will also disclose its ''Tracking Error'' (as defined below).

According to the Application, the Adviser expects that the Proxy Portfolio, the Portfolio Overlap, the Daily Deviations and related information will provide a set of high-quality proxy information that arbitrageurs will use to construct a hedging basket. The Portfolio Overlap, Daily Deviation, and Empirical Percentile data will help arbitrageurs by describing the market behavior of the Proxy Portfolio and how it relates to a Fund's portfolio holdings, and by providing historical valuation data and analysis.

Indicative Net Asset Value

With respect to the Funds, for each Fund, an estimated value—the Indicative Net Asset Value (''INAV'')—will be disseminated that reflects an estimated intraday value of a Fund's portfolio. The INAV will represent, on a per Share basis, the current value of a Fund's portfolio holdings (including liabilities) and will be widely disseminated every 15 seconds throughout the Core Trading Session by the Reporting Authority and/or by one or more major market data vendors. The dissemination of the INAV will allow investors to determine the estimated intraday value of the underlying portfolio of a series of Managed Portfolio Securities on a daily basis and will provide a close estimate of that value throughout the trading day. The INAV should not be viewed as a ''real-time'' update of the NAV per Share of each Fund because the INAV may not be calculated in the same manner as the NAV, which will be computed once a day, generally at the end of the Business Day. Unlike the INAV, which will be based on consolidated last sale information, the NAV per Share will be based on the closing prices on the primary market for each exchange-listed security. If there is no closing price for a particular exchange listed security, such as when it is the subject of a trading halt, a Fund will use fair value pricing. To the extent a security's last trade price is stale or otherwise inaccurate, the Adviser's ''Valuation

[9] *See* note 20 [sic], *infra.*

[10] The Adviser will deem the securities in a Proxy Portfolio to trade synchronously with Shares of a Fund if the primary trading session of the securities in the Proxy Portfolio substantially overlaps with the Exchange's Core Trading Session (normally 9:30 a.m. to 4:00 p.m., Eastern Time (''E.T.'').

[11] For purposes of this filing, ETFs include Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). The ETFs all will be listed and traded in the U.S. on registered exchanges.

[12] ETNs are securities as described in NYSE Arca Rule 5.2–E(j)(6) (Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities).

[13] ADRs are issued by a U.S. financial institution (a ''depositary'') and evidence ownership in a security or pool of securities issued by a foreign issuer that have been deposited with the depositary. Each ADR is registered under the Securities Act of 1933 (''1933 Act'') (15 U.S.C. 77a) on Form F–6. ADRs in which a Fund may invest will trade on an exchange.

[14] 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, such as an S&P 500 index futures contract. All futures contracts that a Fund may invest in will be traded on a U.S. futures exchange.

[15] The Adviser will notify the Exchange at any time that the securities representing 10% or more of a Fund's Portfolio Positions do not have readily available market quotations, and will request the Exchange to halt trading in such Fund's Shares.

[16] ''Business Day'' is defined to mean any day that the Exchange is open, including any day when a Fund satisfies redemption requests as required by section 22(e) of the 1940 Act.

[17] According to the Application, the Portfolio Overlap will be calculated by taking the lesser weight of each asset held in common between a Fund's portfolio and the Proxy Portfolio, and adding the totals.

Committee'' will implement any fair valuation adjustments as necessary or appropriate pursuant to the applicable Fund's valuation procedures.

An independent INAV provider will calculate the INAV for each Fund during the Exchange's Core Trading Session by dividing the ''Intraday Fund Value'' (as defined below) as of the time of the calculation by the total number of outstanding Shares of that Fund. ''Intraday Fund Value'' is the sum of the Fund's assets, including the amount of cash held in a Fund's portfolio, the amount of accrued assets, such as interest, dividends and distributions owed to a Fund, and the value of the securities held in a Fund's portfolio, minus the amount of a Fund's accrued liabilities as of a Fund's previous day's NAV calculation. The Intraday Fund Value is also based on intraday estimates of securities values. A Fund's INAV will represent a Fund's estimated NAV, which will be the value of the Fund's Portfolio Positions, on a per Share basis.[18]

According to the Application, the Funds will adopt uniform procedures governing the calculation and dissemination of the INAV, and the Adviser will bear responsibility for the oversight of that process (''INAV Procedures''). The Adviser will also, as part of that oversight process, periodically, but no less than annually, review the INAV Procedures. Any material changes to the procedures will be submitted to the Funds' Audit Committee for review.

With respect to funds utilizing an INAV, the Exchange, after consulting with various Lead Market Makers that trade ETFs on the Exchange, believes that market makers will be able to make efficient and liquid markets priced near the NAV given daily publication of the Proxy Portfolio and dissemination of an accurate INAV every 15 seconds, and that market makers have knowledge of a series of Managed Portfolio Securities' means of achieving its investment objective, even without daily disclosure of its underlying portfolio. With respect to the Funds, the Exchange believes that the information proposed to be provided will build upon and be similar to the pricing signals of existing ETFs such that the market price of Shares will closely track the relevant Fund's NAV and reflect minimal intraday and end-of-day premiums/discounts to NAV and narrow spreads without market makers' knowledge of a Fund's underlying portfolio.

The Exchange understands that, with respect to funds utilizing an INAV, traders will analyze the correlation between changes in the value of a fund's Proxy Portfolio against changes in the INAV to determine whether and how to engage in arbitrage transactions and hedge their positions. The ''Daily Deviation'' (as described below) and related summary data will help them in this determination by describing the market behavior of the Proxy Portfolio and how it relates to a fund's portfolio holdings, and by providing historical valuation data and analysis. Taken together, with respect to the Funds, the Adviser expects that all of this information will provide market participants with high-quality pricing signals for the Funds, which will be comparable to the pricing signals arbitrageurs use for existing ETFs, and which will enable arbitrageurs to engage in transactions that will keep the intraday premiums/discounts and spreads of Shares low.

Market makers have indicated to the Exchange that there will be sufficient data to engage in arbitrage trades in Managed Portfolio Securities with accuracy and minimal risk. In addition, market makers have indicated that they are incented to engage in arbitrage trades when the risk of the trade is low. However, they cannot know with any certainty the precise risk of an arbitrage trade on the current or any future Business Day. Rather, they must use information from the past to evaluate the likely risk of an arbitrage trade executed today or in the future. More specifically, it is understood that they must use historical data about the performance of the fund whose shares are being arbitraged and the performance of the fund's Proxy Portfolio. From such data, arbitrageurs may be able to develop sufficient insight into the risk of an arbitrage trade to evaluate and price it into the trade.

With respect to the Funds, each Fund will disclose its Tracking Error. The Adviser defines ''Tracking Error'' to mean 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 a Fund at the end of the trading day). Tracking Error measures the ability of the Proxy Portfolio to accurately reflect changes in a Fund's NAV and allows arbitrageurs to estimate the risk of large daily proxy spreads by examining the variability of daily proxy spreads over the past year. The Adviser will calculate and disclose daily each Fund's Tracking Error over the preceding rolling one-year period. Upon inception, each Fund's Tracking Error data will be updated daily to increasingly reflect the current proxy spread of a Fund.

Additionally, data would be provided regarding past performance or value between each Fund's NAV and the performance of its Proxy Portfolio to evaluate and price the risk of arbitrage trades in a Fund's Shares, in the form of ''Daily Deviation,'' ''Empirical Percentiles,'' and ''Portfolio Overlap,'' as described below.[19]

Each Fund will disseminate a ''Daily Deviation'' between the performance of a Fund's NAV and its Proxy Portfolio for the most recent rolling one-year period. The Daily Deviation is calculated each day of the most recent rolling one-year period as the difference between the performance of a Fund's NAV and its Proxy Portfolio's NAV.[20] As such, each Daily Deviation directly captures the performance difference between a Fund's Proxy Portfolio and its NAV on one trading day during the measured period. The Daily Deviation can be calculated over any number of Business Days. The Adviser proposes to provide data for the most recent one-year period (rolling, and updated on a daily basis). The Adviser believes this level of data will be sufficient for arbitrageurs to develop the necessary insights into the relationship between the performance of a Fund's Proxy Portfolio and its NAV. In particular, with such data, arbitrageurs will be able to examine the reported Daily Deviations over any desired interval during the one-year period to evaluate the degree of risk involved in entering into an arbitrage trade in a Fund's Shares, using the Proxy Portfolio to hedge an open position in the Shares.

There would be a summary of the Daily Deviation data in the form of a series of ''Empirical Percentiles.'' More specifically, the Adviser will tabulate and disclose Empirical Percentiles of Daily Deviations, over the past one-year period, at the following levels: 99%, 95%, 90%, 75%, 50%, 25%, 10%, 5% and 1%. Each Empirical Percentile represents the value of Daily Deviations (in basis points) exceeded by a specific percentage of all Daily Deviations over the past year. For example, the 99%

[18] The INAV for a Fund for a given day T will be calculated by the INAV provider using the portfolio holdings from the previous day, T–1, as provided by the Fund custodian prior to the open of trading on day T.

[19] The data will be disclosed on the Funds' website.

[20] The Adviser will calculate and disclose daily each Fund's Tracking Error, Daily Deviations and ''Empirical Percentiles'' (as defined below) over the preceding rolling one-year period. Upon inception, each Fund's Portfolio Overlap, Tracking Error, Daily Deviation and Empirical Percentile data will be updated daily to increasingly reflect the performance of a Fund.

Empirical Percentile tells arbitrageurs that only 1% of all Daily Deviations over the past year exceeded a specified number of basis points. In this way, the Empirical Percentiles allow arbitrageurs to better predict the likelihood of a Daily Deviation being more than such specified number of basis points. The Empirical Percentiles give arbitrageurs differing levels of confidence that Daily Deviations will be confined to a certain number of basis points.

In addition, a Portfolio Overlap will be calculated for each Fund by taking the lesser weight of each asset held in common between a Fund's portfolio and the Proxy Portfolio, and adding the totals. The Adviser will calculate and disseminate the Portfolio Overlap each Business Day on the Funds' website prior to the commencement of trading on the Exchange's Core Trading Session. The Adviser believes that the Portfolio Overlap will support the use of the Proxy Portfolio by arbitrageurs in determining hedging transactions.

The Adviser believes further that, under the circumstances described, given the high degree of overlap, the high correlation and low Tracking Error between each Fund's Portfolio Positions and its Proxy Portfolio, arbitrageurs will be able to use the Proxy Portfolio as a high-quality hedging vehicle for a Fund. Arbitrageurs will know the Daily Deviation for the last rolling one-year period between a Fund and its Proxy Portfolio, the Empirical Percentiles and the Tracking Error. Together, the Adviser believes that these measures will help arbitrageurs to evaluate and mitigate the risk of an arbitrage trade in Shares and to use the Proxy Portfolio as a hedging vehicle for open positions in Shares.

Description of the Funds and the Issuer

The Shares of each Fund will be issued by T. Rowe Price Exchange-Traded Funds, Inc. (''Issuer''), a corporation organized under the laws of the State of Maryland, which may be comprised of multiple separate series, and registered with the Commission as an open-end management investment company.[21] State Street Bank and Trust Co. will serve as the Funds' transfer agent, administrator and custodian (the ''Transfer Agent'', ''Administrator'', or ''Custodian''). T. Rowe Price Investment Services, Inc., a registered broker dealer and an affiliate of the Adviser, will serve as the distributor (''Distributor'') of the Shares.

As noted above, proposed Commentary .04 to Rule 8.601–E provides that, if the investment adviser to the Investment Company issuing Managed Portfolio Securities is affiliated with a broker-dealer, such investment adviser must erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio.[22] In addition, proposed Commentary .04 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. Proposed Commentary .04 to Rule 8.601–E is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Rule 5.2–E(j)(3). However, Commentary .04, in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer, reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not registered as a broker-dealer but the Adviser is affiliated with a broker-dealer and has implemented a ''fire wall'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to a Fund's portfolio. In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Description of the Funds

According to the Application, for each Fund, the Adviser will identify its Proxy Portfolio, which could be a broad-based securities index (*e.g.,* the S&P 500) or a Fund's recently disclosed portfolio holdings. The Proxy Portfolio will be determined such that at least 80% of its total assets will overlap with the portfolio weightings of a Fund. Although the Adviser may change a Fund's Proxy Portfolio at any time, the Adviser currently does not expect to make such changes more frequently than quarterly (for example, in connection with the release of a Fund's portfolio holdings). The Adviser will publish a new Proxy Portfolio for a Fund only before the commencement of trading of such Fund's Shares on that Business Day, and the Adviser will not make intra-day changes to the Proxy Portfolio except to correct errors in the published Proxy Portfolio.

T. Rowe Price Blue Chip Growth ETF

The investment objective of the T. Rowe Price Blue Chip Growth ETF will be to seek to provide long-term capital growth. Income will be a secondary objective.

The Fund will invest only in exchange-traded securities, exchange-traded futures, cash, and cash equivalents. The Fund will normally invest at least 80% of its net assets in U.S. exchange-traded common stocks of large and medium-sized blue-chip growth companies. These are companies that, in the Adviser's view, are well established in their industries and have the potential for above-average earnings growth.

T. Rowe Price Dividend Growth ETF

The investment objective of the T. Rowe Price Dividend Growth ETF will

[21] The Issuer is registered under the 1940 Act. On December 11, 2019, the Issuer filed a registration statement on Form N–1A under the 1933 Act, and under the 1940 Act relating to the Funds (File Nos.333–235450 and 811–23494) (the ''Registration Statement''). The Issuer filed a seventh amended application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14214), dated October 16, 2019 (''Application''). On December 10, 2019, the Commission issued an order (''Exemptive Order'') under the 1940 Act granting the exemptions requested in the Application (Investment Company Act Release No. 33713, December 10, 2019). Investments made by the Funds will comply with the conditions set forth in the Application and the Exemptive Order. The description of the operation of the Funds herein is based, in part, on the Registration Statement and the Application.

[22] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel will be subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violations, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

be to seek dividend income and long-term capital growth primarily through investments in stocks.

The Fund will invest only in exchange-traded securities, U.S. exchange-traded futures, cash, and cash equivalents. The Fund normally will invest at least 65% of the Fund's total assets in stocks listed in the United States, with an emphasis on stocks that have a strong track record of paying dividends or that are expected to increase their dividends over time.

T. Rowe Price Growth Stock ETF

The investment objective of the T. Rowe Price Growth Stock ETF will be to seek long-term capital growth through investments in stocks.

The Fund will invest only in exchange-traded securities, U.S. exchange-traded futures, cash, and cash equivalents. The Fund will normally invest at least 80% of its net assets in the common stocks of a diversified group of growth companies. While it may invest in companies of any market capitalization, the Fund generally seeks investments in stocks of large-capitalization companies with one or more of the following characteristics: Strong cash flow and an above-average rate of earnings growth; the ability to sustain earnings momentum during economic downturns; and occupation of a lucrative niche in the economy and the ability to expand even during times of slow economic growth.

T. Rowe Price Equity Income ETF

The investment objective of the T. Rowe Price Equity Income ETF will be to seek a high level of dividend income and long-term capital growth primarily through investments in stocks.

The Fund will invest only in exchange-traded securities, U.S. exchange-traded futures, cash, and cash equivalents. The Fund will normally invest at least 80% of its net assets in common stocks listed in the United States, with an emphasis on large-capitalization stocks that have a strong track record of paying dividends or that are believed to be undervalued. The Fund typically will employ a ''value'' approach in selecting investments.

Investment Restrictions

The Shares of each Fund will conform to the initial and continued listing criteria under proposed Rule 8.601–E.

Each Fund's investments will be consistent with its investment objective. The Funds will not invest in penny stocks as defined by Rule 3a51–1 under the Act. No Fund will borrow for investment purposes, hold short positions or purchase any securities that are illiquid investments (as defined in Rule 22e–4(a)(8) under the 1940 Act) at the time of purchase.

Purchases and Redemptions

General

The Issuer will offer, issue and sell Shares of each Fund to investors only in Creation Units through the Distributor on a continuous basis at the NAV per Share next determined after an order in proper form is received. The NAV of each Fund is expected to be determined as of 4:00 p.m. E.T. on each Business Day. The Issuer will sell and redeem Creation Units of each Fund only on a Business Day. A Creation Unit will consist of at least 5,000 Shares. Creation Units of the Funds may be purchased and/or redeemed entirely for cash, as permissible under the procedures described below.

Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments''). The names and quantities of the instruments that constitute the Deposit Instruments and the Redemption Instruments for a Fund (collectively, the ''Creation Basket'') will be the same as a Fund's designated Proxy Portfolio, except to the extent that a Fund requires purchases and redemptions to be made entirely or in part on a cash basis, as described below.

If there is a difference between the net asset value attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

Each Fund will adopt and implement policies and procedures regarding the composition of its Creation Baskets. The policies and procedures will set forth detailed parameters for the construction and acceptance of baskets that are in the best interests of a Fund, including the process for any revisions to or deviations from, those parameters. A Fund's basket policies and procedures would be covered by its compliance program and other requirements under rule 38a–1 of the 1940 Act.

A Fund that normally issues and redeems Creation Units in kind may require purchases and redemptions to be made entirely or in part on a cash basis.[23] In such an instance, the Fund will announce, before the open of trading on a given Business Day, that all purchases, all redemptions or all purchases and redemptions on that day will be made wholly or partly in cash. A Fund may also determine, upon receiving a purchase or redemption order from an Authorized Participant (as defined below), to have the purchase or redemption, as applicable, be made entirely or in part in cash.

Each Business Day, before the open of trading on the Exchange, the Fund will cause to be published through the National Securities Clearing Corporation (''NSCC'') the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any) for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Proxy Portfolio will be published each Business Day regardless of whether a Fund decides to issue or redeem Creation Units entirely or in part on a cash basis.

All orders to purchase Creation Units must be placed with the Distributor by or through an Authorized Participant, which is generally either: (1) A ''participating party,'' *i.e.,* a broker or other participant, in the Continuous Net Settlement (''CNS'') System of the NSCC, a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (2) a DTC Participant, which in any case has executed a participant agreement with the Distributor and the transfer agent with respect to the creation and redemption of Creation Units (''Participant Agreement''). Except as otherwise permitted, no promoter, principal underwriter (*e.g.,* the Distributor) or affiliated person of a Fund, or any affiliated person of such person, will be an Authorized Participant in Shares.

Timing

Validly submitted orders to purchase or redeem Creation Units on each Business Day will be accepted until the end of the Core Trading Session (the ''Order Cut-Off Time''), generally 4:00

[23] The Adviser represents that, to the extent the Issuer effects the creation or redemption of Shares in cash, such transactions will be effected in the same manner for all ''Authorized Participants'' (as defined below).

p.m. E.T., on the Business Day that the order is placed (the ''Transmittal Date''). All Creation Unit orders must be received by the Distributor no later than the Order Cut-Off Time in order to receive the NAV determined on the Transmittal Date. When the Exchange closes earlier than normal, a Fund may require orders for Creation Units to be placed earlier in the Business Day.

Availability of Information

The Funds' website, which will be publicly available at no charge prior to the public offering of Shares, will include a prospectus for each Fund that may be downloaded. In addition, the website will include the following:

- Quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the Closing Price [24] or Bid/Ask Price of Shares, and a calculation of the premium/discount of the Closing Price or Bid/Ask Price [25] against such NAV and any other information regarding premiums and discounts as may be required for other ETFs under rule 6c–11 under the 1940 Act. 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 1940 Act.
- Each Fund's Proxy Portfolio, as well as the Portfolio Overlap, Daily Deviation (for the last rolling one-year period), Empirical Percentiles and Tracking Error of the Proxy Portfolio.
- Each Fund's Tracking Error.
- Bid-ask spread information for each Fund.
- A legend that will highlight for investors the differences between a Fund and Managed Fund Shares (which are actively-managed investment company securities such as those listed under NYSE Arca Rule 8.600–E). The legend will state that, unlike actively-managed ETFs such as Managed Fund Shares, a Fund does not disclose its portfolio holdings each day, but instead publishes a Proxy Portfolio each day during normal trading hours. The legend will also include prominently in clear bullet style the risks of a Fund relative to other ETFs.

Investors interested in a particular Fund can also obtain its prospectus, statement of additional information (''SAI''), shareholder reports, Form N–CSR and Form N–CEN. The prospectus, SAI and shareholder reports will be available free upon request from the Funds, and those documents and the Form N–CSR and Form N–CEN may be viewed on-screen or downloaded from the Commission's website at *http://www.sec.gov.*

Information regarding the market price of Shares and trading volume in Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information may be published daily in the financial section of newspapers. Further, the Exchange will disseminate every 15 seconds throughout the Core Trading Session through the facilities of the Consolidated Tape Association (''CTA'') or other widely disseminated means each Fund's INAV.

Dissemination of the INAV

The INAV for each Fund will be disseminated every 15 seconds during the Exchange's Core Trading Session. The INAV should not be viewed as a ''real-time'' update of NAV because the INAV may not be calculated in the same manner as NAV, which is computed once per day.

An independent third party provider will calculate the INAV for each Fund during the Exchange's Core Trading Session by dividing the ''Intraday Fund Value'' (as defined below) as of the time of the calculation by the total number of outstanding Shares of that Fund. ''Intraday Fund Value'' is the sum of a Fund's assets, including the amount of cash held in a Fund's portfolio, the amount of accrued assets, such as interest, dividends and distributions owed to a Fund, and the value of the securities held in a Fund's portfolio, minus the amount of a Fund's accrued liabilities as of a Fund's previous day's NAV calculation. The Intraday Fund Value is also based on intraday estimates of securities values.

The Funds will provide the independent third party provider with information to calculate the INAV. Dissemination of the INAV will allow investors to determine the value of the underlying portfolio of a Fund throughout the trading day.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds.[26] Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include the extent to which trading is not occurring in the securities and/or the financial instruments comprising the holdings of a Fund, or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Rule 8.601–E(d)(2)(D), which sets forth circumstances under which Shares of the Funds may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. in accordance with NYSE Arca Rule 7.34–E (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.601–E. The Exchange represents that, for initial and/or continued listing, each Fund will be in compliance with Rule 10A–3 under the Act,[27] as provided by NYSE Arca Rule 5.3–E. The Exchange will obtain a representation from the Issuer of the Shares of each Fund that the NAV per Share of each Fund will be calculated daily and will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[28] The Exchange

[24] The ''Closing Price'' of Shares is the official closing price of Shares on the Exchange's Core Trading Session.

[25] The ''Bid/Ask Price'' is the midpoint of the highest bid and lowest offer based on the National Best Bid and Offer at the time that a Fund's NAV is calculated. The ''National Best Bid and Offer'' is the current national best bid and national best offer as disseminated by the Consolidated Quotation System or UTP Plan Securities Information Processor.

[26] *See* NYSE Arca Rule 7.12–E.

[27] *See* 17 CFR 240.10A–3.

[28] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The

Continued

represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, certain exchange-traded equities, ETFs, ETNs and futures with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[29]

The Funds' Adviser will make available to FINRA and the Exchange the portfolio holdings of each Fund in order to facilitate the performance of the surveillances referred to above on a confidential basis.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares and the differing rights of various investors to redeem Shares; (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated INAV will not be calculated or publicly disseminated; (4) how information regarding the INAV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Funds are subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated as of 4:00 p.m. E.T. each trading day.

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that Equity Trading Permit Holders or issuers would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[30] in general, and furthers the objectives of Section 6(b)(5) of the Act,[31] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that proposed Rule 8.601–E is designed to prevent fraudulent and manipulative acts and practices in that the proposed rules relating to listing and trading of Managed Portfolio Securities provide specific initial and continued listing criteria required to be met by such securities. Proposed Rule 8.601–E(d) sets forth initial and continued listing criteria applicable to Managed Portfolio Securities. Proposed Rule 8.601–E(d)(1)(A) provides that, for each series of Managed Portfolio Securities, the Exchange will establish a minimum number of Managed Portfolio Securities required to be outstanding at the time of commencement of trading. In addition, proposed Rule 8.601–E(d)(1)(B) provides that the Exchange will obtain a representation from the issuer of each series of Managed Portfolio Securities that the NAV per share for the series will be calculated daily and that the NAV and the Portfolio Positions will be made publicly available to all market participants at the same time. Proposed Rule 8.601–E(d)(1)(C) provides that all Managed Portfolio Securities shall have a stated objective, which shall be adhered to under normal market conditions.

Proposed Rule 8.601–E(d)(2) provides that each series of Managed Portfolio Securities will be listed and traded subject to application of the specified continued listing criteria, as described above. Proposed Rule 8.601–E(d)(2)(A)(i) provides that the Portfolio Positions shall be disseminated quarterly and shall be made publicly available to all market participants at the same time. Proposed Rule 8.601–E(d)(2)(C) provides that the Exchange will maintain surveillance procedures for securities listed under Rule 8.601–E and consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) for, a series of Managed Portfolio Securities under any of the following circumstances: (i) If any of the continued listing requirements set forth in Rule 8.601–E are not continuously maintained; (ii) if any of the statements or representations regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange listing rules, specified in the Exchange's rule filing pursuant to Section 19(b) of the Securities Exchange Act of 1934 to permit the listing and trading of a series of Managed Portfolio Securities, is not continuously maintained; or (iii) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

Proposed Rule 8.601–E(d)(1)(D) provides that, if a series of Managed Portfolio Securities is trading on the Exchange pursuant to unlisted trading privileges, the Exchange shall halt trading in that series as specified in Rule 7.18–E(d)(1). In addition, upon notification to the Exchange by the issuer of a series of Managed Portfolio Securities that the NAV with respect to a series of Managed Portfolio Securities is not disseminated to all market participants at the same time, the Exchange shall halt trading in such series until such time as the NAV is available to all market participants at the same time. The Exchange may also halt trading at the request of the investment adviser to a series of Managed Portfolio Securities upon notification to the Exchange that the

Exchange is responsible for FINRA's performance under this regulatory services agreement.

[29] For a list of the current members of ISG, *see www.isgportal.org.*

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

securities representing 10% or more of the Portfolio Positions for such series do not have readily available market quotations, and during times of unusual market volatility where a significant portion of such series' Portfolio Positions are subject to a trading halt or have a last trade price that the investment adviser deems unreliable, if the investment adviser determines that it is in the best interest of such series.

Proposed Commentary .01 provides that the Exchange will file separate proposals under Section 19(b) of the Act before the listing and trading of a series of Managed Portfolio Securities. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Proposed Commentary .03 provides that the Exchange will implement and maintain written surveillance procedures for Managed Portfolio Securities. Proposed Commentary .04 provides that if the investment adviser to the Investment Company issuing Managed Portfolio Securities is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Personnel who make decisions on the Investment Company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio.

With respect to the proposed listing and trading of Shares of the Funds, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.601–E. Price information for the securities and other financial instruments held by the Funds will be available through major market data vendors or exchanges listing and trading such securities and other financial instruments. One-hundred percent of the value of a Fund's Portfolio Positions (except for cash, cash equivalents and Treasury securities) at the time of purchase will be listed on national securities exchanges (or, in the limited case of index futures contracts, futures exchanges). The listing and trading of such securities is subject to rules of the exchanges on which they are listed and traded, as approved by the Commission. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, certain exchange-traded equities, ETFs, ETNs and futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

With respect to the Funds, the Exchange believes that a Fund's Proxy Portfolio, together with the real-time dissemination of a Fund's INAV, as well as the Portfolio Overlap, Daily Deviations, Empirical Percentiles and Tracking Error data as well as the right of Authorized Participants to create and redeem each day at the NAV, will be sufficient for market participants to value and trade Shares in a manner that will not lead to significant deviations between the Shares' Bid/Ask Price and NAV.

The pricing efficiency with respect to trading a series of Managed Portfolio Securities will not generally rest on the ability of market participants to arbitrage between the Shares and a Fund's portfolio, but rather on the ability of market participants to assess a Fund's underlying value accurately enough throughout the trading day in order to hedge positions in Shares effectively. Professional traders will buy Shares that they perceive to be trading at a price less than that which will be available at a subsequent time, and sell Shares they perceive to be trading at a price higher than that which will be available at a subsequent time. It is expected that, as part of their normal day-to-day trading activity, market makers assigned to Shares by the Exchange, off-exchange market makers, firms that specialize in electronic trading, hedge funds and other professionals specializing in short-term, non-fundamental trading strategies will assume the risk of being ''long'' or ''short'' Shares through such trading and will hedge such risk wholly or partly by simultaneously taking positions in correlated assets [32] or by netting the exposure against other, offsetting trading positions—much as such firms do with existing ETFs and other equities. Disclosure of the Proxy Portfolio, Portfolio Overlap, the Daily Deviation (for the last rolling one-year period), Empirical Percentiles and Tracking Error of the Proxy Portfolio, a Fund's investment objective and principal investment strategies in its prospectus and SAI, along with the dissemination of the INAV every 15 seconds, should permit professional investors to engage readily in this type of hedging activity.[33]

It is expected that market participants will utilize the Proxy Portfolio as a pricing signal and high quality hedging vehicle, analyze the Portfolio Overlap, Daily Deviation (for the last rolling one-year period), Empirical Percentiles and Tracking Error of the Proxy Portfolio, and gain experience with how various market factors (*e.g.,* general market movements, sensitivity or correlations of the Proxy Portfolio to intraday movements in interest rates or commodity prices, other benchmarks, etc.) affect the value of the Proxy Portfolio in order to determine how best to hedge long or short positions taken in Shares in a manner that will permit them to provide a Bid/Ask Price for Shares that is near to the value of the Proxy Portfolio throughout the day. The ability of market participants to accurately hedge their positions should serve to minimize any divergence between the secondary market price of the Shares and a Fund's NAV, as well as create liquidity in the Shares. With respect to trading of Shares of the Funds, the ability of market participants to buy and sell Shares at prices near the NAV is dependent upon their assessment that the value of the Proxy Portfolio is a reliable, indicative real-time value for a Fund's underlying

[32] Price correlation trading is used throughout the financial industry. It is used to discover both trading opportunities to be exploited, such as currency pairs and statistical arbitrage, as well as for risk mitigation such as dispersion trading and beta hedging. These correlations are a function of differentials, over time, between one or multiple securities pricing. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. With the Proxy Portfolio identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of the Proxy Portfolio throughout the trade period, making corrections where warranted.

[33] With respect to trading in Shares of the Funds, market participants can manage risk in a variety of ways. It is expected that market participants will be able to determine how to trade Shares at levels approximating the INAV without taking undue risk by utilizing the Proxy Portfolio directly as a hedge, analyzing the Daily Deviation (for the last rolling one-year period), Empirical Percentiles and Tracking Error of the Proxy Portfolio, gaining experience with how various market factors (*e.g.,* general market movements, sensitivity of the value of the Proxy Portfolio to intraday movements in interest rates or commodity prices, etc.) affect value of the Proxy Portfolio, and by finding hedges for their long or short positions in Shares using instruments correlated with such factors.

holdings. Market participants are expected to accept the value of the Proxy Portfolio as a reliable, indicative real-time value because (1) the Proxy Portfolio will be determined such that at least 80% of its total assets will overlap with the portfolio weightings of the Fund, (2) the securities in which the Funds plan to invest are generally highly liquid and actively traded and therefore generally have accurate real time pricing available, and (3) market participants will have a daily opportunity to evaluate whether the value of the Proxy Portfolio at or near the close of trading is predictive of the actual NAV.

The disclosure of a Fund's Proxy Portfolio and the ability of Authorized Participants to create and redeem each Business Day at the NAV, will be crucial for market participants to value and trade Shares in a manner that will not lead to significant deviations between the Shares' Bid/Ask Price and NAV.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of an issue of Managed Portfolio Securities that the NAV per share of such issue will be calculated daily and that the NAV and Portfolio Positions will be made available to all market participants at the same time. Investors can also obtain a fund's SAI, shareholder reports, and its Form N–CSR and Form N–CEN. A fund's SAI and shareholder reports will be available free upon request from the applicable fund, and those documents and the Form N–CSR and Form N–CEN may be viewed on-screen or downloaded from the Commission's website.

In addition, with respect to the Funds, a large amount of information will be publicly available regarding the Funds and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares will be available via the CTA high-speed line. Information regarding the INAV will be widely disseminated every 15 seconds throughout the Exchange's Core Trading Session by one or more major market data vendors. The website for the Funds will include a form of the prospectus for the Funds that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in a Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.601–E(d)(2)(D), which sets forth circumstances under which Shares of the Funds may be halted. In addition, as noted above, investors will have ready access to the INAV, the Proxy Portfolio, and quotation and last sale information for the Shares. The Shares will conform to the initial and continued listing criteria under proposed Rule 8.601–E.

The value of a Fund's Portfolio Positions will (a) be listed on an exchange and the primary trading session of such exchange will substantially overlap with the Exchange's Core Trading Session, as defined in Rule 7.34–E(a); (b) with respect to exchange-traded futures, be listed on a U.S. futures exchange; or (c) consist of cash and cash equivalents.[34]

The proposed rule change is designed to improve the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, with respect to the Funds, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Proxy Portfolio, Portfolio Overlap, Daily Deviation, Empirical Percentiles, Tracking Error, the INAV, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[35] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change would permit listing and trading of another type of actively-managed ETF that has characteristics different from existing actively-managed and index ETFs, including that the portfolio is disclosed at least once quarterly as opposed to daily, and would introduce additional competition among various ETF products to the benefit of investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–2019–92 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–2019–92. 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

[34] *See* note 10, *supra*.

[35] 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–2019–92 and should be submitted on or before January 24, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2019–28411 Filed 1–2–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87870; File No. SR–NASDAQ–2019–095]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Exchange's All-Inclusive Annual Listing Fees for Exchange Traded Products

December 30, 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 December 23, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the Exchange's all-inclusive annual listing fees for exchange traded products under Nasdaq Rule 5940(b). While changes proposed herein are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 2, 2020. Therefore, any exchange traded product that lists on Nasdaq before January 2, 2020 will be subject to the rule as in effect before this amendment.[3]

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 (''All-Inclusive Annual Listing Fee'') for exchange traded products (''ETPs'') under Nasdaq Rule 5940(b).[4] As stated in Nasdaq Rule 5940(b)(1), the issuer of a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares or other security listed under the Nasdaq Rule 5700 Series where no other fee schedule is specifically applicable listed on The Nasdaq Global Market pays to Nasdaq an All-Inclusive Annual Listing Fee, calculated on total shares outstanding (''TSO'')[5] and as set forth in Nasdaq Rule 5940(b)(1).[6] The proposed rule changes are designed to incentivize issuers to list new products, transfer existing products to the Exchange, and retain listings on the Exchange, which the Exchange believes will enhance competition both among issuers and listing venues, to the benefit of investors. In addition, and as described below, the proposed fee changes will also allow for increased investment by the Exchange into its ETP business and allow for enhancements that will benefit issuers of Nasdaq-listed ETPs and their investors.

The fees in the current All-Inclusive Annual Listing Fee schedule have remained unchanged for more than 17 years since they were first adopted back in 2002.[7] The ETP world has evolved greatly since 2002 when ETPs in the U.S. numbered approximately 130 with total net assets of $102 billion. Compare this to 2018 when the number of ETPs in the U.S. had grown to over 2,300 with $3.37 trillion in total net assets.[8]

Under the current All-Inclusive Annual Listing Fees schedule, included below, there are 17 pricing tiers. The tiers begin with the lowest pricing tier of $6,500 for TSOs of up to 1 million to the top pricing tier of $14,500 for TSOs over 16 million.

As detailed in the charts below, the proposed new fee schedule reduces the number of pricing tiers from 17 to 10. The 10 new proposed pricing tiers begin with the lowest pricing tier of up to 1 million TSO to the top pricing tier for over 250 million TSO. The proposed All-Inclusive Annual Listing Fees range from $6,000 to $50,000. In each case, the All-Inclusive Annual Listing Fee will be based on a sponsor's[9] aggregate TSO.

As a result of the Exchange simplifying the pricing tiers for its All-

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Nasdaq will maintain in its online rule book, until January 2, 2020, a link to the text of the rule as in effect before this amendment.

[4] *See* Nasdaq Rule 5940(b).

[5] In addition, proposed Nasdaq Rule 5940(b)(3) would calculate TSO as ''the aggregate number of shares, issued by one or more Companies with the same sponsor, of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares or other security listed under the Nasdaq Rule 5700 Series where no other fee schedule is specifically applicable, listed on The Nasdaq Global Market as shown in the Company's most recent periodic report required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq. For purposes of this rule, ''sponsor'' is defined as an investment adviser (or investment advisers who are ''affiliated persons'' as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended) to one or more Companies.''

[6] *See* Nasdaq Rule 5940(b)(1).

[7] *See* Securities Exchange Act Release No. 45920 (May 13, 2002), 67 FR 35605 (May 20, 2002) (SR–NASD–2002–45).

[8] *See* M. Sznuguera. Number of ETPs in the U.S. 2000–2018 (Mar. 15, 2019) (Graph); Total net assets of ETFs in the U.S. 2002–2018 (May 10, 2019) (Graph). Retrieved from Statista database.

[9] As proposed, the term ''sponsor'' is defined as an investment adviser (or investment advisers who are ''affiliated persons'' as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended) to one or more Companies.

Inclusive Annual Fee for ETPs by reducing their number from 17 to 10, some sponsors may pay more while others may pay the same or less. Specifically, the Exchange will charge an All-Inclusive Annual Listing Fee for ETPs with the fewest total shares outstanding (sponsors with up to 1 million TSO) of $500 less.[10] Sponsors in the next proposed pricing tier of 1+ to 5 million shares TSO will pay from $1,000 less to $500 more. Sponsors in the next proposed pricing tier of 5+ to 10 million shares TSO will pay from $1,000 less to $1,000 more. Put another way, sponsors with a TSO up to the current TSO tier of 10 million will see a minimal change to their All-Inclusive Annual Listing Fees ranging from $1,000 less to $1,000 more. Sponsors in the remaining proposed pricing tiers will pay more than in the current pricing schedule.

The current All-Inclusive Annual Fee for ETPs listed on The Nasdaq Global Market are as follows:

EXCHANGE TRADED PRODUCTS

Up to 1 million shares	$6,500
1+ to 2 million shares	7,000
2+ to 3 million shares	7,500
3+ to 4 million shares	8,000
4+ to 5 million shares	8,500
5+ to 6 million shares	9,000
6+ to 7 million shares	9,500
7+ to 8 million shares	10,000
8+ to 9 million shares	10,500
9+ to 10 million shares	11,000
10+ to 11 million shares	11,500
11+ to 12 million shares	12,000
12+ to 13 million shares	12,500
13+ to 14 million shares	13,000
14+ to 15 million shares	13,500
15+ to 16 million shares	14,000
Over 16 million shares	14,500

The proposed All-Inclusive Annual Fee for ETPs listed on The Nasdaq Global Market are as follows and effective January 2, 2020:

EXCHANGE TRADED PRODUCTS

Up to 1 million shares	$6,000
1+ to 5 million shares	7,500
5+ to 10 million shares	10,000
10+ to 25 million shares	15,000
25+ to 50 million shares	20,000
50+ to 75 million shares	25,000
75+ to 100 million shares	30,000
100+ to 150 million shares	35,000
150+ to 250 million shares	40,000
250+ million shares	50,000

As described below, Nasdaq believes that the aforementioned proposed fee changes better reflect the value provided by the Exchange to issuers of ETPs.

Nasdaq also proposes a change to Nasdaq Rule 5940(b)(3) as to how the Exchange calculates ''total shares outstanding'' by aggregating the number of shares of all Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares or other security listed under the Nasdaq Rule 5700 Series where no other fee schedule is specifically applicable, issued by one or more Companies[11] with the same sponsor, listed on The Nasdaq Global Market, and to ensure that the All-Inclusive Annual Listing Fees under Nasdaq Rule 5940(b)(1) are calculated correctly.[12] Additionally, Nasdaq proposes to amend Nasdaq Rule 5940(b)(3) to define the term ''sponsor'' for the purposes of assessing the fees in Nasdaq Rule 5940(b)(1).[13] Nasdaq believes the term ''sponsor'' is a frequently used term throughout the investment community to refer to the entity that oversees the issuers of ETPs and that the inclusion in the proposed rule language clarifies Nasdaq's method for calculating the All-Inclusive Annual Fee.

Nasdaq proposes to amend Nasdaq Rule 5940(b)(5) to clarify the application of the rule for market participants. 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.

Implementation Date

While these changes are effective upon filing, Nasdaq has designated the proposed amendments to be operative on January 2, 2020.[14]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[16] 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 the proposed rule change is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges because the All-Inclusive Annual Fee for ETPs, as amended, provides sponsors with a fair and economical way to list multiple ETPs without incurring significant additional cost. Overall, Nasdaq believes that the proposed rule change is a reasonable attempt to attract new issuers and sponsors, retain existing listings on the Exchange, and is reasonable and necessary to support the enhanced services provided by the Exchange to issuers of ETPs and as discussed below.

As discussed above, sponsors with an aggregate TSO up to the current TSO tier of 10 million will see a minimal change to their All-Inclusive Annual Listing Fees ranging from $1,000 less to $1,000 more, while sponsors in the remaining proposed pricing tiers will pay more than in the current pricing schedule. Nasdaq believes charging a lower or slightly modified All-Inclusive Annual Fee for sponsors with smaller aggregate TSOs will serve to continue to encourage sponsors of smaller and new to market ETPs to list on the Exchange. Although there will be some fluctuation as to the amount sponsors will pay within the proposed lower TSO pricing tiers as compared with what sponsors currently pay under the lower TSO pricing tiers (generally, a relatively small amount more or a small amount less), as previously stated, this is to some extent a result of reducing the current 17 pricing tiers down to 10 pricing tiers. The Exchange also believes that the reduction in the overall number of pricing tiers will serve to simplify, lessen confusion and increase the ease of use of the All-Inclusive Annual Fee schedule.

The Exchange also believes that it is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges to increase the All-Inclusive Annual Listing Fee for the other sponsors, as noted above and as set forth in the chart above, because of the increased value provided by the Exchange to issuers of ETPs since the Exchange first established the current rates over 17 years ago when the number of ETPs and the total net assets of exchange traded funds was much smaller.[17] Nasdaq also believes it is not unfairly discriminatory to charge a higher All-Inclusive Annual Listing Fee for sponsors with a higher TSO because these proposed fees will be provided on an equal basis to all sponsors within the same TSO pricing tier. Additionally, the Exchange believes it is reasonable, fair and equitable, and not unfairly

[10] The All-Inclusive Annual Listing Fee would drop from $6,500 to $6,000.

[11] Nasdaq Rule 5005(a)(6) defines ''Company'' as ''the issuer of a security listed or applying to list on Nasdaq. For purposes of the Nasdaq Rule 5000 Series, the term ''Company'' includes an issuer that is not incorporated, such as, for example, a limited partnership.''

[12] This change will not result in any impact on sponsors because it reflects the Exchange's current practice.

[13] *See supra* note 9.

[14] Nasdaq will maintain in its online rule book, until January 2, 2020, a link to the text of the rule as in effect before this amendment.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4) and (5).

[17] *See supra* note 8.

discriminatory for sponsors with larger TSOs to pay more since the Exchange expends more resources on these sponsors.

The Exchange notes that its general costs have increased, including due to price inflation. In addition, the Exchange continues to improve the value it provides to issuers of Nasdaq-listed ETPs through enhanced services. These improvements include the continued development and enhancement of Nasdaq's online tools, including the Nasdaq Listing Center and Reference Library, to the benefit of issuers of Nasdaq-listed ETPs and prospective investors. In addition, the proposed increase will help Nasdaq continue to invest in these initiatives and its regulatory programs. The proposed fee change will also allow for increased investment by the Exchange into its ETP business, including operational support, reporting resources and trading market enhancements, which will benefit issuers of Nasdaq-listed ETPs and their investors.

Nasdaq notes that it operates in a highly competitive market in which issuers can readily switch exchanges for their ETPs if they deem its All-Inclusive Annual Listing Fees excessive. In such an environment, Nasdaq must continually review its fees to assure that they remain competitive. As stated above, Nasdaq believes its All-Inclusive Annual Fee for ETPs, as amended, is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges since, in totality, it results in issuer fees that are very competitive with its competition in this space. Nasdaq notes that changes to its issuer fees can have a direct effect on the ability of the Exchange to compete for new listings and retain existing listings and serves to constrain such fees.

The Exchange also believes that the proposed change to Nasdaq Rule 5940(b)(3) as to the term ''total shares outstanding'' by aggregating the number of shares of all Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares or other security listed under the Nasdaq Rule 5700 Series where no other fee schedule is specifically applicable, issued by one or more Companies with the same sponsor, listed on The Nasdaq Global Market, to ensure that the calculation of the All-Inclusive Annual Listing Fees under Nasdaq Rule 5940(b)(1) reflects the Exchange's current practice,[18] is consistent with Section 6(b)(5) of the Act 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 because it will increase the transparency of the assessment of the All-Inclusive Annual Listing Fees.

In addition, the Exchange believes that the proposed change to Nasdaq Rule 5940(b)(3) as to the term ''sponsor'' to define it as an investment adviser (or investment advisers who are ''affiliated persons'' as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended) to one or more Companies, is consistent with Section 6(b)(5) of the Act 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 because it increases the clarity of the rule.

Additionally, Nasdaq believes the proposed change to Nasdaq Rule 5940(b)(5) is consistent with Section 6(b)(5) of the Act 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 because it clarifies the application of the rule for market participants.

The proposed removal of rule text relating to fees that are no longer applicable is ministerial in nature and has no substantive effect.

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 ETPs is competitive and sponsors may freely choose alternative venues. The proposal is a competitive proposal designed to implement pricing that better reflects the value, revenue and expenses associated with listing ETPs on the Exchange. Nasdaq notes that changes to its issuer fees can have a direct effect on the ability of the Exchange to compete for new listings and retain existing listings and serves to constrain such fees. For these reasons, Nasdaq does not believe that the proposed rule change will result in any undue burden on competition for listing ETPs.

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.[19]

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–2019–095 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–2019–095. 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,

[18] *See supra* note 12.

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

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–2019–095 and should be submitted on or before January 24, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2019–28414 Filed 1–2–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87867; File No. SR–NYSEArca–2019–96]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Adopt NYSE Arca Rule 8.602–E To Permit the Listing and Trading of Actively Managed Solution Shares and To List and Trade Two Series of Actively Managed Solution Shares Issued by the American Century ETF Trust Under Proposed NYSE Arca Rule 8.602–E

December 30, 2019.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 23, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a new NYSE Arca Rule 8.602–E to permit it to list and trade Actively Managed Solution Shares, which are shares of actively managed exchange-traded funds for which the portfolio is disclosed in accordance with standard mutual fund disclosure rules. In addition, the Exchange proposes to list and trade shares of the following under proposed NYSE Arca Rule 8.602–E: American Century Mid Cap Growth Impact ETF and American Century Sustainable Equity ETF. 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 to add new NYSE Arca Rule 8.602–E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of Actively Managed Solution Shares, which are securities issued by an actively managed open-end investment management company. The Exchange also proposes to list and trade shares (''Shares'') of the following under proposed NYSE Arca Rule 8.602–E: American Century Mid Cap Growth Impact ETF and American Century Sustainable Equity ETF (each a ''Fund'' and, collectively, the ''Funds'').

Proposed Listing Rules

Proposed Rule 8.602–E (a) provides that the Exchange will consider for trading, whether by listing or pursuant to UTP, Actively Managed Solution Shares that meet the criteria of Rule 8.602–E.

Proposed Rule 8.602–E (b) provides that Rule 8.602–E is applicable only to Actively Managed Solution Shares and that, except to the extent inconsistent with Rule 8.602–E, or unless the context otherwise requires, the rules and procedures of the Exchange's Board of Directors shall be applicable to the trading on the Exchange of such securities. Proposed Rule 8.602–E (b) provides further that Actively Managed Solution Shares are included within the definition of ''security'' or ''securities'' as such terms are used in the Rules of the Exchange.

Proposed Rule 8.602–E(c)(1) defines the term ''Actively Managed Solution Shares'' as a security that (a) represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number of shares equal to a Creation Unit, or multiples thereof, in return for a designated portfolio of securities (and/or an amount of cash) with a value equal to the next determined net asset value; and (c) when aggregated in the same specified aggregate number of shares, or multiples thereof, may be redeemed at the request of an Authorized Participant (as defined in the applicable Investment Company prospectus), which Authorized Participant will be paid a portfolio of securities and/or cash with a value equal to the next determined net asset value (''NAV'').

Proposed Rule 8.602–E(c)(2) defines the term ''Actual Portfolio'' as the aggregation of securities held by a series of Actively Managed Solution Shares, which aggregation is periodically disclosed in accordance with requirements applicable to open-end management investment companies registered under the Investment Company Act of 1940 (''1940 Act'').

Proposed Rule 8.602–E(c)(3) defines the term ''Proxy Portfolio'' as a basket of cash and securities that differs from the Actual Portfolio of a series of Actively Managed Solution Shares and that is intended to closely track the daily performance of the Actual Portfolio on any trading day. The Proxy Portfolio will be disseminated each business day on the website for each series of Actively Managed Solution Shares.

Proposed Rule 8.602–E(c)(4) defines the term ''Creation Unit'' as a specified minimum number of Actively Managed Solution Shares issued by an Investment Company at the request of an Authorized Participant in return for a designated portfolio of securities (and/or an amount of cash) specified each day and a specified minimum number of Actively Managed Solution Shares that may be redeemed to an Investment

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Company at the request of an Authorized Participant in return for a portfolio of securities and/or cash, consistent with the Investment Company's investment objectives and policies.

Proposed Rule 8.602–E(c)(5) defines the term ''Reporting Authority'' in respect of a particular series of Actively Managed Solution Shares means the Exchange, the exchange that lists a particular series of Actively Managed Solution Shares (if the Exchange is trading such series pursuant to unlisted trading privileges), an institution, or a reporting service designated by the issuer of a series of Actively Managed Solution Shares as the official source for calculating and reporting information relating to such series, including the net asset value, or other information relating to the issuance, redemption or trading of Actively Managed Solution Shares. A series of Actively Managed Solution Shares may have more than one Reporting Authority, each having different functions.

Proposed Rule 8.602–E(c)(6) defines the term ''normal market conditions'' as including, but not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

Proposed Rule 8.602–E (d) sets forth initial and continued listing criteria applicable to Actively Managed Solution Shares. Proposed Rule 8.602–E(d)(1)(A) provides that, for each series of Actively Managed Solution Shares, the Exchange will establish a minimum number of Actively Managed Solution Shares required to be outstanding at the time of commencement of trading on the Exchange. In addition, proposed Rule 8.602–E(d)(1)(B) provides that the Exchange will obtain a representation from the issuer of each series of Actively Managed Solution Shares that the NAV per share for the series will be calculated daily and that the NAV will be made available to all market participants at the same time.[4] Proposed Rule 8.602–E(d)(1)(C) provides that all Actively Managed Solution Shares shall have a stated investment objective, which shall be adhered to under normal market conditions.

Proposed Rule 8.602–E(d)(2) provides that each series of Actively Managed Solution Shares will be listed and traded subject to application of the following continued listing criteria:

Proposed Rule 8.602–E(d)(2)(A) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Actively Managed Solution Shares under any of the following circumstances:

(i) if any of the continued listing requirements set forth in Rule 8.602–E are not continuously maintained;

(ii) if any of the statements or representations regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange listing rules, specified in the Exchange's rule filing pursuant to Section 19(b) of the Securities Exchange Act of 1934 to permit the listing and trading of a series of Actively Managed Solution Shares, is not continuously maintained; or

(iii) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

Proposed Rule 8.602–E(d)(2)(B) provides that, upon notification to the Exchange by the issuer of a series of Actively Managed Solution Shares that the NAV with respect to such series is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV is available to all market participants. The Exchange may also halt trading at the request of the investment adviser to a series of Actively Managed Solution Shares upon notification to the Exchange by the issuer of such series that the securities representing 10% or more of the Actual Portfolio for such series do not have readily available market quotations, and during times of unusual market volatility where a significant portion of such series' Actual Portfolio are subject to a trading halt or have a last trade price that the investment adviser deems unreliable, if the investment adviser determines that it is in the best interest of such series.

Proposed Rule 8.602–E(d)(2)(C) provides that, upon termination of an Investment Company, the Exchange requires that Actively Managed Solution Shares issued in connection with such entity be removed from Exchange listing.

Proposed Rule 8.602–E(d)(2)(D) provides that voting rights shall be as set forth in the applicable Investment Company prospectus.

Proposed Rule 8.602–E(e), which relates to limitation of Exchange liability, provides that neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current portfolio value; the current value of the portfolio of securities required to be deposited to the Investment Company in connection with issuance of Actively Managed Solution Shares; the amount of any dividend equivalent payment or cash distribution to holders of Actively Managed Solution Shares; net asset value; or other information relating to the purchase, redemption, or trading of Actively Managed Solution Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

Proposed Commentary .01 to NYSE Arca Rule 8.602–E provides that the Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before the listing and trading of Actively Managed Solution Shares. All statements or representations contained in such rule filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Proposed Commentary .02 to NYSE Arca Rule 8.602–E provides that the Exchange will implement and maintain written surveillance procedures for Actively Managed Solution Shares.

Proposed Commentary .03 to NYSE Arca Rule 8.602–E provides that, if the investment adviser to the Investment Company issuing Actively Managed Solution Shares is registered as a broker-dealer or is affiliated with a broker-dealer such investment adviser will erect and maintain a ''fire wall''

[4] NYSE Arca Rule 7.18–E(d)(2) (''Halts of Derivative Securities Products Listed on the NYSE Arca Marketplace'') provides that, with respect to Derivative Securities Products listed on the NYSE Arca Marketplace for which a net asset value is disseminated, if the Exchange becomes aware that the net asset value is not being disseminated to all market participants at the same time, it will halt trading in the affected Derivative Securities Product on the NYSE Arca Marketplace until such time as the net asset value is available to all market participants.

between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition of and/or changes to such Investment Company's Actual Portfolio or the applicable Proxy Portfolio. Personnel who make decisions on the Investment Company's Actual Portfolio or the applicable Proxy Portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company Actual Portfolio or Proxy Portfolio.[5]

Key Features of Actively Managed Solution Shares

While funds issuing Actively Managed Solution Shares will be actively-managed and, to that extent, will be similar to Managed Fund Shares, Actively Managed Solution Shares differ from Managed Fund Shares in the following important respects. First, in contrast to Managed Fund Shares, which are actively-managed funds listed and traded under NYSE Arca Rule 8.600–E[6] and for which a ''Disclosed Portfolio'' is required to be disseminated at least once daily,[7] the portfolio for an issue of Actively Managed Solution Shares will be disclosed at least quarterly in accordance with normal disclosure requirements otherwise applicable to open-end management investment companies registered under the 1940 Act.[8] The composition of the portfolio of an issue of Actively Managed Solution Shares would not be available at commencement of Exchange listing and trading. Second, Actively Managed Solution Shares would not publish their full portfolio contents daily. Instead, Actively Managed Solution Shares would utilize a proxy portfolio methodology, as described below (the ''NYSE Proxy Portfolio Methodology'') that would allow market participants to assess the intraday value and associated risk of a fund's then-current portfolio (the ''Actual Portfolio'') and thereby facilitate the purchase and sale of shares by investors in the secondary market at prices that do not vary materially from their NAV.[9] An important part of the NYSE Proxy Portfolio Methodology would be the creation of a basket of cash and securities that is designed to closely track the daily performance of a fund's portfolio (''Proxy Portfolio'').[10] Daily disclosure of Proxy Portfolio contents, Proxy Overlap, and related metrics, as described below (collectively, the ''Proxy Portfolio Disclosures''), would permit hedging of risks associated with arbitrage and market making activities concerning a series of Actively Managed Solution Shares. In essence, the Proxy Portfolio Disclosures should permit market making in fund shares that keeps bid/ask spreads narrow and the secondary market prices of fund shares at or close to NAV.

The Exchange, after consulting with various Lead Market Makers that trade exchange-traded funds (''ETFs'') on the Exchange, believes that market makers will be able to make efficient and liquid markets priced near the NAV in light of the daily Proxy Portfolio Disclosures, and market makers employ market making techniques such as ''statistical arbitrage,'' including correlation hedging, beta hedging, and dispersion trading, which is currently used throughout the financial services industry, to make efficient markets in exchange-traded products.[11] This ability should permit market makers to make efficient markets in an issue of Actively Managed Solution Shares without precise knowledge of a Fund's underlying portfolio.

The Exchange understands that traders use statistical analysis to derive correlations between different sets of instruments to identify opportunities to buy or sell one set of instruments when it is mispriced relative to the others. For Actively Managed Solution Shares, market makers may use the knowledge of a fund's means of achieving its investment objective, as described in the applicable fund registration statement, together with the Proxy Portfolio Disclosures to manage a market maker's quoting risk in connection with trading Fund Shares. Market makers can then conduct statistical arbitrage between Proxy Portfolio and shares of a fund, buying and selling one against the other over the course of the trading day. They will evaluate how the Proxy Portfolio performed in comparison to the price of a fund's shares, and use that analysis as well as knowledge of risk metrics, such as volatility and turnover, to provide a more efficient hedge.

Market makers have indicated to the Exchange that there will be sufficient data to run a statistical analysis which will lead to spreads being tightened substantially around NAV of a fund's shares. This is similar to certain other existing exchange traded products (for example, ETFs that invest in foreign securities that do not trade during U.S. trading hours), in which spreads may be generally wider in the early days of trading and then narrow as market

[5] The Exchange will propose applicable NYSE Arca listing fees for Actively Managed Solution Shares in the NYSE Arca Equities Schedule of Fees and Charges via a separate proposed rule change.

[6] The Commission has previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under NYSE Arca Rule 8.600–E. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR–NYSEArca–2010–118) (order approving Exchange listing and trading of the SiM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF). The Commission also has approved a proposed rule change relating to generic listing standards for Managed Fund Shares. Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016 (SR–NYSEArca–2015–110) (amending NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

[7] NYSE Arca Rule 8.600–E(c)(2) defines the term ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. NYSE Arca Rule 8.600–E(d)(2)(B)(i) requires that the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

[8] A mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–CSR under the 1940 Act, and is required to file its complete portfolio schedules each month on Form N–PORT under the 1940 Act, within 60 days of the end of each month. Information reported on Form N–PORT for the third month of a Fund's fiscal quarter will be made publicly available 60 days after the end of a Fund's fiscal quarter. These forms are available to the public on the Commission's website at *www.sec.gov.*

[9] The NYSE Proxy Portfolio Methodology is owned by the NYSE Group, Inc. and licensed for use by the Funds. NYSE Group, Inc. is not affiliated with the Funds, Adviser or Distributor.

[10] The Funds will have in place policies and procedures regarding the construction and composition of its Proxy Portfolio. Such policies and procedures will be covered by a Fund's compliance program and other requirements under Rule 38a-1 under the 1940 Act.

[11] Statistical arbitrage enables a trader to construct an accurate proxy for another instrument, allowing it to hedge the other instrument or buy or sell the instrument when it is cheap or expensive in relation to the proxy. Statistical analysis permits traders to discover correlations based purely on trading data without regard to other fundamental drivers. These correlations are a function of differentials, over time, between one instrument or group of instruments and one or more other instruments. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging proxy has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period making correction where warranted. In the case of correlation hedging, the analysis seeks to find a proxy that matches the pricing behavior of a fund. In the case of beta hedging, the analysis seeks to determine the relationship between the price movement over time of a fund and that of another stock.

makers gain more confidence in their real-time hedges.

Description of the Funds and the Trust

The Funds will be series of the American Century ETF Trust (''Trust''), which will be registered with the Commission as an open-end management investment company.[12]

American Century Investment Management, Inc. (''Adviser'') will be the investment adviser to the Funds. Foreside Fund Services, LLC will act as the distributor and principal underwriter (''Distributor'') for the Funds.

Proposed Commentary .03 to NYSE Arca Rule 8.602–E provides that, if the investment adviser to the Investment Company issuing Actively Managed Solution Shares is registered as a broker-dealer or is affiliated with a broker-dealer such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company's Actual Portfolio or the applicable Proxy Portfolio. Personnel who make decisions on the Investment Company's Actual Portfolio or the applicable Proxy Portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company Actual Portfolio or Proxy Portfolio. Proposed Commentary .03(a) is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Rule 5.2–E(j)(3); however, Commentary .03(a) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds.[13] The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer. The Adviser has implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to a Fund's portfolio.

In the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer, or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Actively Managed Solution Shares

With respect to the Funds, according to the Application, the Adviser believes Actively Managed Solution Shares would allow for efficient trading of Shares through an effective Fund portfolio transparency substitute and publication of related informative metrics, while still shielding the identity of the full Fund portfolio contents to protect a fund's performance-seeking strategies. Even though a Fund would not publish its full portfolio contents daily, the Adviser believes that the NYSE Proxy Portfolio Methodology would allow market participants to assess the intraday value and associated risk of a Fund's then-current portfolio (the ''Actual Portfolio''). As a result, the Adviser believes that investors would be able to purchase and sell Shares in the secondary market at prices that are at or close to their NAV. An important part of the NYSE Proxy Portfolio Methodology would be the creation of the Proxy Portfolio. As noted above, daily disclosure of the Proxy Portfolio Disclosures would also allow a fund to permit effective arbitrage, including hedging of investors' positions in shares.

The Adviser believes Actively Managed Solution Shares would benefit investors by allowing them to access a greater choice of active portfolio managers in an ETF structure, which provides benefits over traditional mutual funds such as brokerage account transactional efficiencies, lower fund costs, tax efficiencies and intraday liquidity.

The Funds

According to the Application, the Funds may hold only ''Permissible Investments.'' As defined in the Application, Permissible Investments include: Exchange-traded funds (''ETFs''),[14] Exchange-traded notes (''ETNs''),[15] exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange contemporaneously with the Shares (''foreign common stocks''), exchange-traded preferred stocks, exchange-traded American Depositary Receipts (''ADRs''), 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

[12] The Trust is registered under the 1940 Act. The Trust filed an application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–15082), dated December 11, 2019 (''American Century Application'' or ''Application''). The Shares will not be listed on the Exchange until an order (''American Century Exemptive Order'') under the 1940 Act has been issued by the Commission with respect to the Application. The American Century Application states that the exemptive relief requested by the Trust will apply to funds of the Trust that comply with the terms and conditions of the American Century Order and the order issued to Natixis ETF Trust II. With respect to the Natixis ETF Trust II, *see* Seventh Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14870) (October 21, 2019 (''Natixis Application''); the Commission notice regarding the Natixis Application (Investment Company Release No. 33684 (File No. 812–14870) November 14, 2019); and the Commission order under the 1940 Act granting the exemptions requested in the Natixis Application (Investment Company Act Release No. 33711 (December 10, 2019)) (''Natixis Exemptive Order''). The American Century Application incorporates the Natixis Exemptive Order by reference. Investments made by the Funds will comply with the conditions set forth in the American Century Application, American Century Exemptive Order and Natixis Exemptive Order. The description of the operation of the Trust and the Funds herein is based, in part, on the American Century Application.

[13] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel will be subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violations, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[14] For purposes of this filing, the term ''ETFs'' are Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs will be listed and traded in the U.S. on a national securities exchange.

[15] For purposes of this filing, ETNs are securities such as those listed on the Exchange under NYSE Arca Rule 5.2–E(j)(6).

with Fund Shares, as well as cash and cash equivalents.[16]

Principal Investments

American Century Mid Cap Growth Impact ETF

The Fund will seek long-term capital growth. Under normal market conditions (as defined in proposed Rule 8.602–E(c)(6)), the Fund will invest at least 80% of its net assets in securities of medium size companies. Securities in which the Fund will generally invest include the following: Exchange-traded common stocks; common stocks listed on a foreign exchange that trade on such exchange contemporaneously with Shares of the Fund, exchange-traded notes, exchange-traded preferred stocks; and exchange-traded ADRs.

The portfolio managers look for stocks of medium-sized companies they believe will increase in value over time, using proprietary fundamental research. To implement this strategy, the portfolio managers will make their investment decisions based primarily on their analysis of individual companies, rather than on broad economic forecasts. The Fund's portfolio managers will seek companies with attractive returns on invested capital that are demonstrating or are forecasted to demonstrate long-term business improvement. Analytical indicators helping to identify or forecast signs of business improvement could include accelerating earnings or revenue growth rates, increasing cash flows, or other indications of the relative future strength of a company's business. The portfolio managers will then create an investment thesis for each security that considers both this analysis and the United Nations Sustainable Development Goals (''SDG''). These theses support the portfolio managers' decisions to buy or hold the stocks of companies that meet their selection criteria and sell the stocks of companies whose characteristics no longer meet their criteria.

American Century Sustainable Equity ETF

The Fund will seek long-term capital growth, with income as a secondary objective. Under normal market conditions, the Fund will invest at least 80% of its net assets in equity securities. Equity securities in which the Fund will generally invest include the following: Exchange-traded common stocks; common stocks listed on a foreign exchange that trade on such exchange contemporaneously with Shares of the Fund, exchange-traded notes, exchange-traded preferred stocks; and exchange-traded ADRs. The Fund will generally invest in larger-sized companies using a quantitative model that combines fundamental measures of a stock's value and growth potential. To measure value, the Fund's portfolio managers may use ratios of stock price-to-earnings and stock price-to-cash flow, among others. To measure growth, the portfolio managers may use the rate of growth of a company's earnings and cash flow and changes in its earnings estimates, as well as other factors. The model also considers price momentum. The portfolio managers also take environmental, social and governance factors into account in making investment decisions.

Other Investments of the Funds

While a Fund, under normal market conditions, will invest at least 80% of its net assets in the securities described in ''Principal Investments'' above, the Funds may hold their remaining assets in the following securities and financial instruments.

The Funds may hold cash and cash equivalents.

For cash management purposes, the Funds may enter into E-mini S&P 500 futures contracts.[17]

Each of the Funds may invest in other investment companies, including all 1940 Act-registered securities (in addition to ETFs).

The Funds may invest in any other security types included in the definition of Permissible Investments.

The NYSE Proxy Portfolio Methodology

According to the Application, the goal of the NYSE Proxy Portfolio Methodology is to permit a fund's Proxy Portfolio, during all market conditions, to track closely the daily performance of a fund's Actual Portfolio and minimize intra-day misalignment between the performance of the Proxy Portfolio and the performance of the Actual Portfolio. The Proxy Portfolio is designed to reflect the economic exposures and the risk characteristics of the Actual Portfolio on any given trading day. The Adviser and the Exchange believe that the Proxy Portfolio Disclosures will enable arbitrageurs and market participants to use the component securities and their weightings in the Proxy Portfolio to calculate intraday values that approximate the value of the securities in the Actual Portfolio and, based thereon, assess whether the market price of the Shares is higher or lower than the approximate contemporaneous value of the Actual Portfolio and engage in arbitrage and hedging activities. These activities will help ensure that Fund market prices remain close to a fund's NAV per Share. In addition, the Proxy Portfolio Disclosures generated by the NYSE Proxy Portfolio Methodology will allow for effective hedging activities by market makers, which will facilitate narrow bid/ask spreads for the Shares.

The Proxy Portfolio

According to the Application, the Proxy Portfolio will be designed to recreate the daily performance of the Actual Portfolio. This is achieved by performing a ''Factor Model'' analysis of the Actual Portfolio. The Factor Model is comprised of three sets of factors or analytical metrics: market-based factors, fundamental factors, and industry/sector factors.

With respect to Actively Managed Solution Shares, each fund utilizing the NYSE Proxy Portfolio Methodology will have a universe of securities (the ''Model Universe'') that will be used to generate a fund's Proxy Portfolio. The Model Universe will be comprised of securities that a fund can purchase and will be a financial index or stated portfolio of securities from which Fund investments will be selected. For example, the Model Universes could be the S&P 500 Index, the Russell 1000 Index or the 3,000 largest U.S.-listed equity securities. The results of the Factor Model analysis of a fund's Actual Portfolio are then applied to a fund's Model Universe. The daily rebalanced Proxy Portfolio is then generated as a result of this Model Universe analysis with the Proxy Portfolio being a small sub-set of the Model Universe. The Factor Model is applied to both the Actual Portfolio and the Model Universe to construct a fund's Proxy Portfolio that performs in a manner substantially identical to the performance of its Actual Portfolio. The Proxy Portfolio will only include Permissible Investments.

Hedging and Arbitrage Opportunities

According to the Application, the Adviser believes that a reliable fund share hedging vehicle, where Proxy Portfolio performance is closely correlated to the Actual Portfolio performance, will reduce the risk of arbitrage trading and will encourage market making activity that drives Share market trading price closer to NAV per Share of a Fund. The Adviser believes that market makers for the Shares would

[16] For purposes of this filing, cash equivalents are those securities and financial instruments enumerated in Commentary .01(c) to NYSE Arca Rule 8.600–E.

[17] E-mini S&P 500 futures contracts are traded on the Chicago Mercantile Exchange, which is a member of the Intermarket Surveillance Group (''ISG'').

determine bid/ask spreads for the Shares based primarily on the market makers' costs to hedge their exposure to the Shares, much in the same way that they determine bid/ask spreads for actively managed and passive ETFs that are already listed and traded in the secondary market. The prices and determination of effective hedging instruments will be influenced by the expected ''Tracking Error'' (described below) and the price differentials between the Proxy Portfolio, which is fully disclosed, and the expected NAV per Share that will be calculated at the end of the trading day.

According to the Application, historically, active ETFs have sought to facilitate market making activity and arbitrage trading by providing full daily portfolio transparency. The Adviser believes that market making activity and arbitrage trading can be facilitated for a Fund by the information proposed to be provided to the market including: The identity and quantity of the components in the highly correlated Proxy Portfolio, the Proxy Overlap, Tracking Error, and the last publicly-disclosed Fund portfolio as well as the identity of a Fund's benchmark index. The Adviser represents that, all other factors being equal, the statistical analysis and case studies of Proxy Portfolio and Actual Portfolio performance correlation indicate that market maker bid/ask spreads for Shares should, on average, be similar to those of active ETFs currently trading on exchanges.

More specifically, because the Proxy Portfolio will be constructed to generate performance that is correlated to the performance of the Actual Portfolio, the Adviser believes that arbitrageurs and market participants will be able to use the component securities and their weightings in the Proxy Portfolio to calculate intraday values that approximate the value of the securities in the Actual Portfolio. Arbitrageurs and market makers then would be able to assess whether the market price of the Shares was higher or lower than the approximate contemporaneous value of the Actual Portfolio securities, and to make arbitrage and hedging decisions using the securities in the Proxy Portfolio.[18]

At the end of each trading day, each Fund will calculate its Proxy Overlap and the standard deviation over the past three months of the daily proxy spread (*i.e.,* the difference, in percentage terms, between the Proxy Portfolio per share NAV and that of the Actual Portfolio at the end of the trading day) (''Tracking Error'') and publish such information before the opening of Fund Share trading in the Exchange's Core Trading Session (normally (9:30 a.m. to 4:00 p.m., Eastern Time (''E.T.'') each ''Business Day.''[19] The Proxy Overlap and Tracking Error will provide additional information to the market making community. In particular, they 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. The Adviser believes this information, alongside the periodic Fund disclosures and the other Proxy Portfolio Disclosures, will provide the level of detail necessary to foster efficient markets and support effective arbitrage and hedging functions by giving them additional information as to the intraday value and associated risk of the Actual Portfolio. As a result, daily Tracking Error and Proxy Overlap publication (as described below) should allow market participants to provide more efficient markets and therefore narrower bid/ask spreads.

Daily Disclosures

With respect to the Funds, the following information will comprise the ''Proxy Portfolio Disclosures'' and will be publicly available on the Funds' website before the commencement of trading in Shares on each Business Day:

• The Proxy Portfolio. The Proxy Portfolio published on the Funds' website each Business Day will include the following information for each portfolio holding in the Proxy Portfolio: (1) Ticker symbol; (2) CUSIP or other identifier; (3) description of holding; (4) quantity of each security or other asset held; and (5) percentage weight of the holding in the Proxy Portfolio.

• The historical ''Tracking Error'' between the Fund's last published NAV per share and the value, on a per Share basis, of the Fund's Proxy Portfolio calculated as of the close of trading on the prior Business Day.

• The ''Proxy Overlap''. ''Proxy Overlap'' is the percentage weight overlap between the holdings of the prior Business Day's Proxy Portfolio compared to the Actual Portfolio's holdings that formed the basis for the Fund's calculation of NAV at the end of the prior Business Day. The Fund's website will note that the Proxy Overlap is calculated based on the Proxy Portfolio and portfolio holdings as of the prior Business Day. The Proxy Overlap will be calculated by taking the lesser weight of each asset held in common between the Actual Portfolio and the Proxy Portfolio and adding the totals.

Creations and Redemptions of Shares

According to the Application, the Creation Basket will be based on the Proxy Portfolio, which is designed to approximate the value and performance of the Actual Portfolio. All Creation Basket instruments will be valued in the same manner as they are valued for purposes of calculating a Fund's NAV, and such valuation will be made in the same manner regardless of the identity of the purchaser or redeemer. Further, the total consideration paid for the purchase or redemption of a Creation Unit of Shares will be based on the NAV of such Fund, as calculated in accordance with the policies and procedures set forth in its registration statement.

As with the Proxy Portfolio, the Creation Basket will mask a Fund's Actual Portfolio from full disclosure while at the same time maximize benefits of the ETF structure to shareholders. In particular, the Adviser believes that the ability of a Fund to take deposits and make redemptions in-kind may aid in achieving a Fund's investment objectives by allowing it to be more fully invested, minimizing cash drag, and reducing flow-related trading costs. In-kind transactions may also increase a Fund's tax efficiency and promote efficient secondary market trading in Shares.

According to the Application, the Trust will offer, issue and sell Shares of each Fund to investors only in Creation Units through the Distributor on a continuous basis at the NAV per Share next determined after an order in proper form is received. The NAV of each Fund is expected to be determined as of 4:00 p.m. E.T. on each Business Day. The Trust will sell and redeem Creation Units of each Fund only on a Business Day. Creation Units of the Funds may be purchased and/or redeemed entirely for cash, as permissible under the procedures described below. The

[18] According to the Application, the Adviser believes that it is statistically impractical to replicate the Actual Portfolio in a manner that would provide any trading advantage to a market participant over a Fund. A Fund's daily disclosures, (*e.g.,* Proxy Portfolio Disclosures and other fund website information and periodic disclosures) are insufficient to permit a third-party to replicate a Fund's Actual Portfolio because the NYSE Proxy Portfolio Methodology only uses lagged information regarding purchases and sales occurring in the Actual Portfolio. Moreover, the daily publication of the Creation Basket information is insufficient to replicate the Actual Portfolio because it is based on the Proxy Portfolio, the construction of which is discussed above. None of the Proxy Portfolio Disclosures provide up-to-date, granular or frequent enough information about the Actual Portfolio to permit replication of the Actual Portfolio or Fund investment strategies on a current basis.

[19] ''Business Day'' is defined in the Application to include any day the Trust is open, including any day when it satisfies redemption requests as required by Section 22(e) of the 1940 Act.

Adviser anticipates that the trading price of a Share will range from $10 to $100.

In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments''). The names and quantities of the instruments that constitute the Deposit Instruments and the Redemption Instruments for a Fund (collectively, the ''Creation Basket'') will be the same as the Fund's Proxy Portfolio, except to the extent purchases and redemptions are made entirely or in part on a cash basis.

If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

Each Fund will adopt and implement policies and procedures regarding the composition of its Creation Baskets. The policies and procedures will set forth detailed parameters for the construction and acceptance of baskets in compliance with the terms and conditions of the Exemptive Order and that are in the best interests of the Fund and its shareholders, including the process for any revisions to or deviations from those parameters. The Fund's basket policies and procedures would be covered by the Fund's compliance program and other requirements under Rule 38a–1 under the 1940 Act.

A Fund that normally issues and redeems Creation Units in kind may require purchases and redemptions to be made entirely or in part on a cash basis. In such an instance, the Fund will announce, before the open of trading in the Core Trading Session (normally, 9:30 a.m. to 4:00 p.m., E.T.) on a given Business Day, that all purchases, all redemptions, or all purchases and redemptions on that day will be made wholly or partly in cash. A Fund may also determine, upon receiving a purchase or redemption order from an Authorized Participant, to have the purchase or redemption, as applicable, be made entirely or in part in cash. Each Business Day, before the open of trading on the Exchange, a Fund will cause to be published through the National Securities Clearing Corporation (''NSCC'') the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket.

All orders to purchase Creation Units must be placed with the Distributor by or through an Authorized Participant, which is either: (1) A ''participating party'' (*i.e.,* a broker or other participant), in the Continuous Net Settlement (''CNS'') System of the NSCC, a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (2) a DTC Participant, which in any case has executed a participant agreement with the Distributor and the transfer agent.

Timing and Transmission of Purchase Orders

All orders to purchase (or redeem) Creation Units, whether using the NSCC Process or the DTC Process, must be received by the Distributor no later than the NAV calculation time (''NAV Calculation Time''), generally 4:00 p.m. E.T. on the date the order is placed (''Transmittal Date'') in order for the purchaser (or redeemer) to receive the NAV determined on the Transmittal Date. In the case of custom orders, the order must be received by the Distributor sufficiently in advance of the NAV Calculation Time in order to help ensure that the Fund has an opportunity to purchase the missing securities with the cash in lieu amounts or to sell securities to generate the cash in lieu amounts prior to the NAV Calculation Time. On days when the Exchange closes earlier than normal, a Fund may require custom orders to be placed earlier in the day.

Availability of Information

The Funds' website will include on a daily basis, per Share for each Fund, the prior Business Day's NAV and the Closing Price or Bid/Ask Price, and a calculation of the premium/discount of the Closing Price or Bid/Ask Price against such NAV.[20] In addition, each Fund will provide any other information on its website regarding premiums/discounts that ETFs registered under the 1940 Act may be required to provide. The website also will include the Proxy Portfolio, the Proxy Overlap, Tracking Error, and bid/ask spread information for each Fund.[21] The Proxy Overlap and Tracking Error will be published on the Funds' website before the opening of Fund Shares in the Core Trading Session each Business Day.

Investors can obtain a Fund's prospectus, statement of additional information (''SAI''), Shareholder Reports, Form N–CSR, N–PORT and Form N–CEN filed with the Commission. The prospectus, SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR, N–PORT, and Form N–CEN may be viewed on-screen or downloaded from the Commission's website.

Updated price information for U.S. exchange-listed equity securities is available through major market data vendors or securities exchanges trading such securities. Quotation and last sale information for the Shares, equity securities and ETFs will be available via the Consolidated Tape Association (''CTA'') high-speed line. Price information for cash equivalents is available through major market data vendors

Investment Restrictions

The Shares of the Funds will conform to the initial and continued listing criteria under proposed Rule 8.602–E. The Funds' holdings will be limited to and consistent with Permissible Investments as described in the Application.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.[22] Trading in Shares of a Fund

[20] The ''premium/discount'' refers to the premium or discount to NAV at the end of a trading day and will be calculated based on the last Bid/Ask Price or the Closing Price on a given trading day. The ''Closing Price'' of Shares is the official closing price of the Shares on the Fund's Exchange. The ''Bid/Ask Price'' is the midpoint of the highest bid and lowest offer based upon the National Best Bid and Offer as of the time of calculation of such Fund's NAV. The ''National Best Bid and Offer'' is the current national best bid and national best offer as disseminated by the Consolidated Quotation System or UTP Plan Securities Information Processor.

[21] According to the Application, the Funds' website will include any other information regarding premiums and discounts as may be required for other ETFs under Rule 6c–11 under the 1940 Act and will also disclose any information regarding the bid/ask spread for a Fund as may be required for other ETFs under Rule 6c–11 under the 1940 Act.

[22] *See* NYSE Arca Rule 7.12–E.

will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.602–E(d)(2)(B), which sets forth circumstances under which Shares of a Fund will be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace in all trading sessions in accordance with NYSE Arca Rule 7.34–E(a). As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.602–E. The Exchange represents that, for initial and/or continued listing, the Funds will be in compliance with Rule 10A–3 under the Act,[23] as provided by NYSE Arca Rule 5.3–E. The Exchange will obtain a representation from the issuer of the Shares of a Fund that the NAV per Share of a Fund will be calculated daily and will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[24] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, exchange-traded equity securities, and E-mini S&P 500 futures contracts with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[25]

The Adviser will make available daily to FINRA and the Exchange the portfolio holdings of a Fund in order to facilitate the performance of the surveillances referred to above.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares; (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) how information regarding the Proxy Portfolio will be disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that a Fund is subject to various fees and expenses described in the applicable registration statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[26] in general, and furthers the objectives of Section 6(b)(5) of the Act,[27] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that proposed Rule 8.602–E is designed to prevent fraudulent and manipulative acts and practices in that the proposed rules relating to listing and trading of Actively Managed Solution Shares provide specific initial and continued listing criteria required to be met by such securities.

Proposed Rule 8.602–E (d) sets forth initial and continued listing criteria applicable to Actively Managed Solution Shares. Proposed Rule 8.602–E(d)(1)(A) provides that, for each series of Actively Managed Solution Shares, the Exchange will establish a minimum number of Actively Managed Solution Shares required to be outstanding at the time of commencement of trading on the Exchange. In addition, proposed Rule 8.602–E(d)(1)(B) provides that the Exchange will obtain a representation from the issuer of each series of Actively Managed Solution Shares that the NAV per share for the series will be calculated daily and that the NAV will be made available to all market participants at the same time. Proposed Rule 8.602–E(d)(2) provides that each series of Actively Managed Solution Shares will be listed and traded subject to application of specified continued listing criteria. Proposed Rule 8.602–E(d)(2)(A) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Actively Managed Solution Shares under any of the circumstances specified in such rule.

Proposed Rule 8.602–E(d)(2)(B) provides that, upon notification to the Exchange by the issuer of a series of Actively Managed Solution Shares that the net asset value with respect to such series is not disseminated to all market participants at the same time, it will halt

[23] *See* 17 CFR 240.10A–3.

[24] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[25] For a list of the current members of ISG, *see www.isgportal.org.*

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

trading in such series until such time as the net asset value is available to all market participants.

Proposed Commentary .01 to NYSE Arca Rule 8.602–E provides that the Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before the listing and trading of Actively Managed Solution Shares. All statements or representations contained in such rule filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings, or (c) the applicability of Exchange listing rules specified in such rule filing will constitute continued listing requirements. An issuer of such securities must notify the Exchange of any failure to comply with such continued listing requirements.

Proposed Commentary .02 to NYSE Arca Rule 8.602–E provides that the Exchange will implement and maintain written surveillance procedures for Actively Managed Solution Shares. Proposed Commentary .03 provides that, if the investment adviser to the Investment Company issuing Actively Managed Solution Shares is registered as a broker-dealer or is affiliated with a broker-dealer such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company's Actual Portfolio or the applicable Proxy Portfolio. Personnel who make decisions on the Investment Company's Actual Portfolio or the applicable Proxy Portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company Actual Portfolio or Proxy Portfolio.

With respect to the proposed listing and trading of Shares of the Funds, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.602–E. The Funds' investments will be consistent with its investment objective and will not be used to enhance leverage. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, exchange-traded equity securities, and E-mini S&P 500 futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The Exchange, after consulting with various Lead Market Makers that trade ETFs on the Exchange, believes that market makers will be able to make efficient and liquid markets priced near the NAV, and that market makers have knowledge of a fund's means of achieving its investment objective even without daily disclosure of a fund's underlying portfolio. The Exchange believes that market makers will employ risk-management techniques to make efficient markets in exchange traded products.[28] This ability should permit market makers to make efficient markets in shares without knowledge of a fund's underlying portfolio.

The Exchange understands that traders use statistical analysis to derive correlations between different sets of instruments to identify opportunities to buy or sell one set of instruments when it is mispriced relative to the others. For Actively Managed Solution Shares, market makers utilizing statistical arbitrage use the knowledge of a fund's means of achieving its investment objective, as described in the applicable fund registration statement, as well as Proxy Portfolio Disclosures to manage a market maker's quoting risk in connection with trading fund shares. Market makers will then conduct statistical arbitrage between the Proxy Portfolio and shares of a fund, buying and selling one against the other over the course of the trading day. Eventually, at the end of each day, they will evaluate how the Proxy Portfolio performed in comparison to the price of a fund's shares, and use that analysis as well as knowledge of risk metrics, such as volatility and turnover, to provide a more efficient hedge.

The Lead Market Makers also indicated that, as with some other new exchange-traded products, spreads would tend to narrow as market makers gain more confidence in the accuracy of their hedges and their ability to adjust these hedges in real-time and gain an understanding of the applicable market risk metrics such as volatility and turnover, and as natural buyers and sellers enter the market. Other relevant factors cited by Lead Market Makers were that a fund's investment objectives are clearly disclosed in the applicable prospectus, the existence of quarterly portfolio disclosure and the ability to create shares in creation unit size.

The real-time dissemination of the identity and quantity of Proxy Portfolio component investments, and historical tracking error (as referenced above), together with the right of Authorized Participants to create and redeem each day at the NAV, will be sufficient for market participants to value and trade shares in a manner that will not lead to significant deviations between the Shares' Bid/Ask Price and NAV.

The pricing efficiency with respect to trading a series of Actively Managed Solution Shares will generally rest on the ability of market participants to arbitrage between the shares and a fund's portfolio, in addition to the ability of market participants to assess a fund's underlying value accurately enough throughout the trading day in order to hedge positions in shares effectively. Professional traders can buy shares that they perceive to be trading at a price less than that which will be available at a subsequent time and sell shares they perceive to be trading at a price higher than that which will be available at a subsequent time. It is expected that, as part of their normal day-to-day trading activity, market makers assigned to shares by the Exchange, off-exchange market makers, firms that specialize in electronic trading, hedge funds and other professionals specializing in short-term, non-fundamental trading strategies will assume the risk of being ''long'' or ''short'' shares through such trading and will hedge such risk wholly or partly by simultaneously taking positions in correlated assets[29] or by netting the exposure against other, offsetting trading positions—much as such firms do with existing ETFs and other equities. Disclosure of a fund's investment objective and principal investment strategies in its prospectus and SAI should permit professional

[28] *See* note 11, *supra.*

[29] Price correlation trading is used throughout the financial industry. It is used to discover both trading opportunities to be exploited, such as currency pairs and statistical arbitrage, as well as for risk mitigation such as dispersion trading and beta hedging. These correlations are a function of differentials, over time, between one or multiple securities pricing. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging basket has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period, making corrections where warranted.

investors to engage easily in this type of hedging activity.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of an issue of Actively Managed Solution Shares that the NAV per Share of a Fund will be calculated daily and that the NAV will be made available to all market participants at the same time. Investors can also obtain a fund's SAI, shareholder reports, and its Form N–CSR, Form N–PORT and Form N–CEN. A Fund's SAI and shareholder reports will be available free upon request from the applicable Fund, and those documents and the Form N–CSR, Form N–PORT and Form N–CEN may be viewed on-screen or downloaded from the Commission's website. In addition, with respect to each Fund, a large amount of information will be publicly available regarding the Funds and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares will be available via the CTA high-speed line. The website for the Funds will include a form of the prospectus for each Fund that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.602–E (d)(2)(C), which sets forth circumstances under which Shares of a Fund will be halted. In addition, as noted above, investors will have ready access to the Proxy Portfolio Disclosures and quotation and last sale information for the Shares. The Shares will conform to the initial and continued listing criteria under proposed Rule 8.602–E.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change would permit listing and trading of another type of actively-managed ETF that has characteristics different from existing actively-managed and index ETFs and would introduce additional competition among various ETF products to the benefit of investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–2019–96 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–2019–96. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2019–96 and should be submitted on or before January 24, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2019–28415 Filed 1–2–20; 8:45 am]

BILLING CODE 8011–01–P

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33736]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

December 27, 2019.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of December 2019. A copy of each 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. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 21, 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: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Shawn Davis, Assistant Director, at (202) 551–6413 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

A&Q Alternative Fixed-Income Strategies Fund LLC [File No. 811–21117]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On November 8, 2019, applicant made a final liquidating distribution to its shareholders based on net asset value. Expenses of $11,000 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on November 8, 2019.

Applicant's Address: c/o UBS Hedge Fund Solutions LLC, 600 Washington Boulevard, Stamford, Connecticut 06901.

IronBridge Funds, Inc. [File No. 811–22397]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to RMB Investors Trust, and on June 21, 2019 made a final distribution to its shareholders based on net asset value. Expenses of approximately $407,886.94 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: One Parkview Plaza, Suite 700, Oakbrook Terrace, Illinois 60181.

Morgan Stanley Asia-Pacific Fund, Inc. [File No. 811–08388]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Morgan Stanley Institutional Fund, Inc.—Emerging Markets Portfolio, and on April 8, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $135,800 incurred in connection with the reorganization were paid by the applicant.

Filing Date: The application was filed on November 7, 2019.

Applicant's Address: Morgan Stanley Asia-Pacific Fund, Inc., c/o Morgan Stanley Investment Management Inc., 522 Fifth Avenue, New York, New York 10036.

Morgan Stanley Emerging Markets Fund, Inc. [File No. 811–06403]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Emerging Markets Portfolio, a series of Morgan Stanley Institutional Fund, Inc., and on February 25, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $123,000 incurred in connection with the reorganization were paid by the applicant.

Filing Date: The application was filed on November 7, 2019.

Applicant's Address: Morgan Stanley Emerging Markets Fund, Inc., c/o Morgan Stanley Investment Management Inc., 522 Fifth Avenue, New York, New York 10036.

Morgan Stanley Institutional Fund of Hedge Funds LP [File No. 811–10593]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant is no longer making and does not propose to make a public offering of its securities. Applicant will continue to operate in reliance on 3(c)(7) of the Act.

Filing Date: The application was filed on October 1, 2019.

Applicant's Address: Morgan Stanley Institutional Fund of Hedge Funds LP, c/o 100 Front Street, Suite 400, West Conshohocken, Pennsylvania 19428–2881.

OFI Funds Trust [File No. 811–23231]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Sector Funds (Invesco Sector Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

OFI SteelPath Series Trust [File No. 811–23277]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Discovery Fund [File No. 811–04410]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Counselor Series Trust (Invesco Counselor Series

Trust), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Discovery Mid Cap Growth Fund [File No. 811–10071]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 20, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Equity Income Fund [File No. 811–04797]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Counselor Series Trust (Invesco Counselor Series Trust), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Government Cash Reserves [File No. 811–05582]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Securities Funds (Invesco Investment Securities Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Government Money Market Fund [File No. 811–02454]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Securities Funds (Invesco Investment Securities Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Institutional Government Money Market Fund [File No. 811–21888]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Short-Term Investments Trust, and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Intermediate Income Fund [File No. 811–22314]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Securities Funds (Invesco Investment Securities Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Intermediate Term Municipal Fund [File No. 811–22142]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Tax-Exempt Funds (Invesco Tax-Exempt Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer International Diversified Fund [File No. 811–21775]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Growth Series (Invesco Growth Series), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Limited-Term Bond Fund [File No. 811–03430]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Securities Funds (Invesco Investment Securities Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Main Street All Cap Fund [File No. 811–10001]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Equity Funds (Invesco Equity Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Main Street Funds [File No. 811–05360]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Equity Funds (Invesco Equity Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Main Street Mid Cap Fund [File No. 811–09333]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Growth Series (Invesco Growth Series), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Main Street Small Cap Fund [File No. 811–22806]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Growth Series (Invesco Growth Series), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Master Event-Linked Bond Fund, LLC [File No. 811–22207]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Growth Series (Invesco Growth Series), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Master Inflation Protected Securities Fund, LLC [File No. 811–22420]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Securities Funds (Invesco Investment Securities Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Multi-State Municipal Trust [File No. 811–05867]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Tax-Exempt Funds (Invesco Tax-Exempt Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Municipal Fund [File No. 811–21881]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Tax-Exempt Funds (Invesco Tax-Exempt Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 1, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Real Estate Fund [File No. 811–10589]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Counselor Series Trust (Invesco Counselor Series Trust), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Rising Dividends Fund [File No. 811–02944]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Equity Funds (Invesco Equity Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Rochester AMT-Free Municipal Fund [File No. 811–02668]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Tax-Exempt Funds (Invesco Tax-Exempt Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Rochester AMT-Free New York Municipal Fund [File No. 811–04054]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Tax-Exempt Funds (Invesco Tax-Exempt Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 1, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Rochester California Municipal Fund [File No. 811–05586]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Tax-Exempt Funds (Invesco Tax-Exempt Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Rochester Fund Municipals [File No. 811–03614]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Tax-Exempt Funds (Invesco Tax-Exempt Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Rochester Ltd Term California Municipal Fund [File No. 811–21474]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Tax-Exempt Funds (Invesco Tax-Exempt Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Rochester Short Duration High Yield Municipal Fund [File No. 811–04803]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Counselor Series Trust (Invesco Counselor Series Trust), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 4, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Series Fund [File No. 811–03346]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Sector Funds (Invesco Sector Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 20, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Short Term Municipal Fund [File No. 811–22139]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Counselor Series Trust (Invesco Counselor Series Trust), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 20, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer SteelPath MLP Funds Trust [File No. 811–22363]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 20, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer SteelPath Panoramic Funds [File No. 811–23061]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of

$1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 20, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Oppenheimer Ultra-Short Duration Fund [File No. 811–22520]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Securities Funds (Invesco Investment Securities Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 20, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Rochester Portfolio Series [File No. 811–06332]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Tax-Exempt Funds (Invesco Tax-Exempt Funds), and on May 24, 2019 made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on November 20, 2019.

Applicant's Address: 6802 South Tucson Way, Centennial, Colorado 80112.

Satuit Capital Management Trust [File No. 811–10103]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 21, 2019, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of $10,000 incurred in connection with the liquidation were paid by applicant's investment adviser.

Filing Dates: The application was filed on August 23, 2019, and amended on November 12, 2019 and December 2, 2019.

Applicant's Address: 1014 Fulton Greer Road, Suite 4B, Franklin, Tennessee 37064.

XAI Octagon Credit Opportunities Alternative Registered Trust—Brokerage Feeder [File No. 811–23178]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on November 13, 2019.

Applicant's Address: 321 North Clark Street, Suite 2430, Chicago, Illinois 60654.

XAI Octagon Credit Opportunities Master Trust [File No. 811–23203]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on November 13, 2019.

Applicant's Address: 321 North Clark Street, Suite 2430, Chicago, Illinois 60654.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2019–28349 Filed 1–2–20; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16234 and #16235; MISSISSIPPI Disaster Number MS–00116]

Administrative Declaration of a Disaster for the State of Mississippi

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Mississippi.

Dated 12/30/2019.

Incident: Tropical Storm Olga.

Incident Period: 10/26/2019.

DATES: Issued on 12/30/2019.

Physical Loan Application Deadline Date: 02/28/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 09/30/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Alcorn

Contiguous Counties:

Mississippi: Prentiss, Tippah, Tishomingo.

Tennessee: Hardeman, Hardin, McNairy.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.000
Homeowners without Credit Available Elsewhere	1.500
Businesses with Credit Available Elsewhere	7.750
Businesses without Credit Available Elsewhere	3.875
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.875
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16234 8 and for economic injury is 16235 0.

The States which received an EIDL Declaration # are Mississippi, Tennessee.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–28395 Filed 1–2–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16236 and #16237; TEXAS Disaster Number TX–00536]

Administrative Declaration of a Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the state of Texas

Dated 12/30/2019.

Incident: Petrochemical Plant Explosion.

Incident Period: 11/27/2019.

DATES: Issued on 12/30/2019.

Physical Loan Application Deadline Date: 02/28/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 09/30/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Jefferson

Contiguous Counties:

Texas: Chambers, Hardin, Liberty, Orange.

Louisiana: Cameron.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.000
Homeowners without Credit Available Elsewhere	1.500
Businesses with Credit Available Elsewhere	7.750
Businesses without Credit Available Elsewhere	3.875
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.875
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16236 4 and for economic injury is 16237 0.

The States which received an EIDL Declaration # are Texas, Louisiana.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–28394 Filed 1–2–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Delegation of Authority No. 479]

Delegation of the Authority To Invoke the Deliberative-Process Privilege

Authority

By virtue of the authority vested in the Secretary of State, including section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), and to the extent authorized by law, I hereby delegate the authority to assert the deliberative-process privilege in judicial and administrative proceedings.

Delegation

This authority is delegated to the Assistant Secretaries of State and their equivalents. For purposes of this delegation, equivalents include but are not limited to Ambassadors-at-Large, Special Envoys, and the Legal Adviser.

The authority delegated herein may be re-delegated to Deputy Assistant Secretaries of State and their equivalents.

Guidelines

The deliberative-process privilege may be invoked only with respect to internal or inter-agency records, information, and communications that are pre-decisional and deliberative. Records, information, and communications are pre-decisional if they were created or shared prior to the adoption of the policy being discussed, regardless of whether the policy was ever implemented. Records, information, and communications are deliberative if their release would expose opinions, assessments, advice, or recommendations offered in the course of agency decision-making, or the internal process of agency decision-making.

The deliberative-process privilege may be invoked only if disclosure of the records, information, or communications at issue would harm or inhibit Department deliberations or decision-making or would otherwise harm legitimate Department interests. The privilege may not be asserted for the purpose of avoiding embarrassment. The privilege may be asserted only in coordination with the Office of the Legal Adviser.

The individual invoking the privilege must personally review the records, information, or communications at issue, and must have intimate familiarity with the underlying subject matter. The individual invoking the privilege may consult with other individuals or offices, as appropriate, to obtain the required familiarity and make the required determinations.

Exclusions

The authority to invoke other discovery privileges, such as the state-secrets privilege, is not delegated herein.

Implementation

The Secretary, Deputy Secretary, and Under Secretaries may exercise the authority delegated herein. This delegation does not repeal or affect any delegation of authority currently in effect.

This delegation does not rescind or disapprove of any of the Department's prior invocations of the deliberative-process privilege.

This delegation of authority shall be published in the **Federal Register**.

Dated: December 17, 2019.

Michael R. Pompeo,

Secretary of State, U.S. Department of State.

[FR Doc. 2019–28386 Filed 1–2–20; 8:45 am]

BILLING CODE 4710–08–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36366]

Patton-Lowe RR, Inc.—Acquisition Exemption—Consolidated Rail Corporation

Patton-Lowe RR, Inc. (PLRI), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Consolidated Rail Corporation (Conrail) an approximately 0.37-mile rail line extending from milepost 64.43 at Craig [1] (east of the at-grade crossing of Indiana SR 46, at a

[1] Craig is an unincorporated railroad location immediately west of the boundary of the City of Greensburg, Ind.

point of connection with the Central Railroad Company of Indiana's (CIND) Westport Industrial Track near CIND milepost 225.0) to milepost 64.80, also at Craig (near the intersection of N County Road 250 W and West Base Road).

According to the verified notice of exemption, PLRI is a subsidiary of Lowe's Pellets & Grain, Inc. (Lowe's). PLRI states that CIND had operated over the Line to provide direct rail service to Lowe's for several years but recently declined to provide service, advising Lowe's that it appeared that the Line was owned by Conrail, not CIND. Lowe's created PLRI to purchase the Line from Conrail, which confirmed its ownership of the Line. PLRI states that, although it may elect to provide common carrier service itself should the need arise, it contemplates reaching an accord with CIND under which CIND would resume switching operations over the Line.

PLRI certifies that its projected annual revenues are not expected to exceed $5 million, and will not exceed those that would qualify it as a Class III rail carrier. PLRI further certifies that the proposed transaction does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after January 19, 2020, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than January 10, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36366, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on PLRI's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to PLRI, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at *www.stb.gov.*

Decided: December 27, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Eden Besera,

Clearance Clerk.

[FR Doc. 2019–28392 Filed 1–2–20; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36377]

BNSF Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company

BNSF Railway Company (BNSF), a Class I rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) for its acquisition of restricted, local, temporary trackage rights over two rail lines owned by Union Pacific Railroad Company (UP) between: (1) UP milepost 93.2 at Stockton, Cal., on UP's Oakland Subdivision, and UP milepost 219.4 at Elsey, Cal., on UP's Canyon Subdivision, a distance of 126.2 miles; and (2) UP milepost 219.4 at Elsey and UP milepost 280.7 at Keddie, Cal., on UP's Canyon Subdivision, a distance of 61.3 miles (collectively, the Lines).

Pursuant to a written temporary trackage rights agreement, UP has agreed to grant restricted trackage rights to BNSF over the Lines. The purpose of this transaction is to permit BNSF to move empty and loaded unit ballast trains to and from the ballast pit at Elsey, which is adjacent to the Lines. The agreement provides that the trackage rights are temporary in nature and are scheduled to expire on December 31, 2020.[1]

The transaction may be consummated on or after January 19, 2020, the effective date of the exemption (30 days after the verified notice was filed).

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than January 10, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36377, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on BNSF's representative, Peter W. Denton, Steptoe & Johnson LLP, 1330 Connecticut Avenue NW, Washington, DC 20036.

According to BNSF, this action is categorically excluded from environmental review under 49 CFR 1105.6(c)(3) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(3).

Board decisions and notices are available at *www.stb.gov.*

Decided: December 27, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Eden Besera,

Clearance Clerk.

[FR Doc. 2019–28396 Filed 1–2–20; 8:45 am]

BILLING CODE 4915–01–P

[1] BNSF states that, because the trackage rights are for local rather than overhead traffic, it is not filing under the Board's class exemption for temporary overhead trackage rights under 49 CFR 1180.2(d)(8). Instead, BNSF has filed under the trackage rights class exemption at section summary 1180.2(d)(7). BNSF states that it will file a petition for partial revocation of this exemption to permit these proposed trackage rights to expire at midnight on December 31, 2020, as provided in the agreement.

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21089]

Winthrop Sargent, John Cogliano, and Paul Fuerst—Acquisition of Control—Plymouth and Brockton Street Railway Company, Brush Hill Transportation Company, and McGinn Bus Company, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: On December 6, 2019, Winthrop Sargent (Sargent), John Cogliano (Cogliano), and Paul Fuerst (Fuerst) (collectively, Applicants), all noncarriers, filed an application for authority after-the-fact to acquire control of Plymouth and Brockton Street Railway Company (P&B), Brush Hill Transportation Company (Brush Hill), and McGinn Bus Company, Inc. (McGinn), from George S. Anzuoni and Richard W. Anzuoni (collectively, Sellers). The Board is tentatively approving and granting after-the-fact authorization of the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action. Persons wishing to oppose the application must follow Board regulations.

DATES: Comments may be filed by February 18, 2020. If any comments are filed, Applicants may file a reply by March 2, 2020. If no opposing comments are filed by February 18, 2020, this notice shall be effective on February 19, 2020.

ADDRESSES: Comments may be filed with the Board either via e-filing or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, send one copy of comments to Applicants' representative: Matthew J. Warren, Sidley Austin LLP, 1501 K Street NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: According to the application, Applicants are three individuals, ''none of whom is a passenger motor carrier'' or owns any other interest in a passenger motor carrier, and Sellers are two individuals who also are noncarriers and do not hold any other interest in regulated passenger motor carriers. (Appl. 2–3.) Under the transaction, Sellers have transferred to Applicants 69% of the stock in P&B [1] and 100% of the stock in Brush Hill and McGinn.[2] (*Id.* at 3.) Specifically, Sargent has acquired 35.19% of P&B's outstanding stock and 51% of the stock in Brush Hill and McGinn; Cogliano has acquired 20.7% of P&B's outstanding stock and 30% of the stock in Brush Hill and McGinn; and Fuerst has acquired 13.11% of P&B's outstanding stock and 19% of the stock in Brush Hill and McGinn. (*Id.*)

Applicants provide the following description of the three carriers:

- P&B provides local and regional passenger bus service in interstate and intrastate commerce throughout the Commonwealth of Massachusetts and the northeastern United States. It has a fleet of 30 owned and seven leased full-size coaches, three trolleys, and one service truck. (*Id.* at 4.)
- Brush Hill provides local and regional passenger bus service in interstate and intrastate commerce throughout the Commonwealth of Massachusetts and the northeastern United States. It has a fleet of six full-size coaches and four trolleys. (*Id.* at 4–5.)
- McGinn provides local and regional passenger bus service in interstate and intrastate commerce throughout the Commonwealth of Massachusetts and the northeastern United States. It has a fleet of 10 full-size coaches and one service truck. (*Id.* at 5.) [3]

Applicants claim that the transaction would have no impact or adverse effect on available transportation options or level of competition in the motor passenger carrier sector. (*Id.* at 1.) They plan to manage the assets with the goal of continuing to provide safe and reliable motor passenger transportation. (*Id.*) They state that they have no current plans to materially alter the service available to the public, revise the controls that are in place to ensure the continued safety and reliability of that service, or make any significant changes that would adversely affect the motor carriers' employees or customers. (*Id.* at 1–2.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges that result, and (3) the interest of affected carrier employees. Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded $2 million during the 12-month period immediately preceding the filing of the application, *see* 49 CFR 1182.2(a)(5).

Applicants assert that the transaction will have a positive effect on the adequacy of transportation services for the public. Applicants state that they currently have no intention of materially altering the nature, extent, or frequency of the service provided by the motor carriers. (*Id.* at 7.) The carriers will continue to operate as they have been, albeit under new ownership. (*Id.*) According to the application, all of the motor carriers' systems will remain in place, as will management experienced in the operation of bus companies. (*Id.*) In the long term, Applicants state that they plan to modernize the motor carriers' fleet of vehicles and invest in technological upgrades and improvements. (*Id.*) Because Applicants control no other carriers, they assert that there will be no negative impact on competition. (*Id.*)

Applicants also maintain that the transaction will not affect fixed charges. (*Id.* at 8.) They state that the stock of the motor carriers has been acquired by Applicants individually, by and through their own personal financing. (*Id.*) No funds will be borrowed to finance the transaction, and therefore, no fixed charged will be incurred by the motor carriers. (*Id.*)

Finally, Applicants assert that there will be no material effect on employee or labor conditions. (*Id.*) They state that the transaction does not envision any immediate change in the day-to-day operations of the motor carriers that could negatively impact employees. (*Id.*) Applicants state that all existing employees, contracts, and programs currently in place will remain, subject to changing market and business demands in the future. (*Id.*)

The Board finds that the acquisition as described in the application is consistent with the public interest and should be tentatively approved and authorized after-the-fact. If any opposing comments are timely filed, these findings will be deemed vacated, and, if a final decision cannot be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at *www.stb.gov.*

It is ordered:

1. The transaction is approved and authorized after-the-fact, subject to the filing of opposing comments.

[1] The remaining 31% of P&B's outstanding stock is owned by approximately 50 individual stockholders who are not parties to the instant transaction. (Appl. 1, n.1.)

[2] Applicants received state regulatory approval from the Massachusetts Department of Public Utilities to acquire a controlling interest of the motor carriers on May 13, 2019. (*Id.* at 2, 6.) Applicants state that they recognize that their application should have been filed with the Board prior to consummation of the transaction. (*Id.* at 2.) Applicants state that they inadvertently did not seek Board approval because of a misunderstanding and a belief that they only required approval from the state regulatory authorities. (*Id.*) Applicants ask the Board to allow them to correct this oversight by granting this after-the-fact approval of their acquisition of control over the three motor carriers. (*Id.*) The Board has permitted parties to obtain after-the-fact licensing authority for a transaction when the failure to seek approval was done without malice and by mistake. *See Allied Indus. Dev. Corp.—Pet. for Declaratory Order,* FD 35477, slip op. at 6 (STB served Sept. 17, 2015) (citing *Gen. Ry.—Exemption for Acquis. of R.R. Line—in Osceola & Dickinson Ctys., Iowa.,* FD 34867, slip op. at 5 (STB served June 15, 2007)).

[3] Additional information about these motor carriers, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (*See* Appl. 4–5; *id.* at Ex. 1.)

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective February 19, 2020, unless opposing comments are filed by February 18, 2020.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: December 23, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2019–28283 Filed 1–2–20; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0094; Notice 1]

Porsche Cars North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Porsche Cars North America, Inc. has determined that certain model year (MY) 2018 Porsche 911 GT3 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, reflective devices, and associated equipment.* Porsche filed a noncompliance report dated July 24, 2019. Porsche subsequently petitioned NHTSA on August 20, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Porsche's petition.

DATES: The closing date for comments on the petition is February 3, 2020.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket number and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, a notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. *Overview:* Porsche has determined that certain MY 2018 Porsche 911 GT3 motor vehicles do not fully comply with Paragraph S8.1.4 and Table I–a of FMVSS No. 108, *Lamps, reflective devices, and associated equipment.* (49 CFR 571.108). Porsche filed a noncompliance report dated July 24, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Porsche subsequently petitioned NHTSA on August 20, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Porsche's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercises of judgment concerning the merits of the petition.

II. *Vehicles Involved:* Approximately 2,610 MY 2018 Porsche 911 GT3 motor vehicles, manufactured between August 30, 2017, and December 21, 2018, are potentially involved.

III. *Noncompliance:* Porsche explains that the noncompliance is that the subject vehicles are equipped with rear reflex reflectors that do not meet the height requirements as specified in paragraph S8.1.4 and Table I–a of FMVSS No. 108. Specifically, the rear reflex reflectors are mounted approximately 0.20 inches below the required 15 inches above road surface. The actual height is approximately 14.8 inches.

IV. *Rule Requirements:* Paragraph S8.1.4 and Table I–a of FMVSS No. 108 includes the requirements relevant to this petition. The reflective devices should not be mounted less than 15 inches, and no more than 60 inches in height.

V. *Summary of Porsche's Petition:*

The following views and arguments presented in this section, V. Summary of Porsche's Petition, are the views and arguments provided by Porsche. They have not been evaluated by the Agency and do not reflect the views of the Agency.

Porsche described the subject noncompliance and stated that the noncompliance is inconsequential as it relates to motor vehicle safety.

Porsche submitted the following views and arguments in support of the petition:

1. The installation height requirements of reflex reflectors as defined by paragraph S8.1.4 of FMVSS

No. 108 are intended to assure a sufficient luminous intensity of the reflex reflectors towards the source of illumination. Although the rear reflex reflectors' installation height falls slightly below the specified minimum height by 0.20 inches (5 mm), Porsche has confirmed that the rear reflex reflectors meet or exceed all applicable FMVSS requirements regarding the luminous intensity performance as stated under § 571.108, S14 and all other relevant requirements of FMVSS No. 108 of paragraphs S8.1 and S8.2. Porsche provided a copy of the photometric test results for the rear reflex reflectors, which Porsche believes shows that the installation height does not affect the performance of the luminous intensity of the rear reflex reflectors or the visibility of the subject vehicles.

2. Porsche is unaware of any accidents, injuries, warranty claims or customer complaints related to the slight shortfall of the rear reflex reflectors' installation height. The absence of indicant data supports the conclusion that the minimal deviation in mounting height does not affect the performance of the rear reflectors or the visibility of the subject vehicles.

3. Porsche notes that NHTSA has previously granted a similar petition. *See* 79 FR 69558, November 21, 2014. In that petition, Harley-Davidson described the noncompliance with FMVSS No. 108 where the rear reflex reflectors were mounted an average of 0.3 inches to 0.7 inches below the required 15 inch height. NHTSA determined that this noncompliance, where the deviation from the specified height was even greater than in the present case, was inconsequential to motor vehicle safety based primarily on the lack of reduction in conspicuity as compared to compliant vehicles. Porsche respectfully suggests that its noncompliant vehicles are also equally conspicuous.

4. The purpose of the FMVSS No. 108 reflex reflector requirement is to prevent crashes by permitting early detection of an unlighted motor vehicle at an intersection or when parked on or by the side of the road, and the height requirement is intended ''to ensure adequate reflex reflector performance relative to headlamps that would illuminate them.'' *See* 82 FR 24204 (May 25, 2017). Porsche stated that the photometry performance of the reflex reflectors in the subject vehicles well exceeds the minimum performance standards outlined in FMVSS No. 108, Table XVI. Based on the photometry performance of the reflectors in the subject vehicles, and the fact that the vehicles meet or exceed the requirements of paragraphs S8.l and S8.2 of FMVSS No. 108, with regard to reflection performance, Porsche believes the vehicles satisfy the safety objectives of the standard.

5. The noncompliance issue has been corrected in production vehicles and all vehicles currently being produced meet applicable mounting height requirements.

6. The mounting height of the reflex reflectors complies with the minimum height requirements of the United Nations ECE regulations. Those regulations specify a minimum mounting height of 250 mm (9.84 inches) for rear retro-reflectors. *See* UN R48, § 6.14.4.2. The reflex reflectors in the subject Porsche vehicles, with a mounting height of 14.8 inches, are well within this requirement.

Porsche concluded that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition, to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Porsche no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Porsche notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8).

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2019–28371 Filed 1–2–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2018–0108; Notice 1]

Great Dane Trailers, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Great Dane Trailers, LLC (Great Dane), has determined that certain model year (MY) 2002–2006 Great Dane Dry Freight Trailers do not comply with Federal Motor Vehicle Safety Standards (FMVSS) No. 223, *Rear Impact Guards,* and FMVSS No. 224, *Rear Impact Protection.* Great Dane filed a noncompliance report dated November 12, 2018 and subsequently amended it on December 5, 2018 and June 11, 2019. Great Dane also petitioned NHTSA on December 6, 2018 for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Great Dane's petition.

DATES: The closing date for comments on the petition is February 3, 2020.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no

limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. *Overview:* Great Dane has determined that certain MY 2002–2006 Great Dane Dry Freight Trailers do not fully comply with paragraphs S5.3(b) of FMVSS No. 223, *Rear Impact Guards* (49 CFR 571.223), and S5.1 of FMVSS No. 224, *Rear Impact Protection* (49 CFR 571.224). Great Dane filed a noncompliance report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports* dated November 12, 2018 and subsequently amended it on December 5, 2018 and June 11, 2019. Great Dane also petitioned NHTSA on December 6, 2018 pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance* for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of Great Dane's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. *Trailers Involved:* Approximately 15,535 MY 2002–2006 Great Dane Dry Freight Trailers, manufactured between July 1, 2002, and December 31, 2005, are potentially involved.

III. *Noncompliance:* Great Dane explained that the noncompliance is that the rear impact certification plate on the rear impact guard of the subject trailers does not contain the date of manufacture as required by paragraphs S5.3(b) of FMVSS No. 223 and S5.1 of FMVSS 224.

IV. *Rule Text:* Paragraphs S5.3(b) of FMVSS 223 and S5.1 of FMVSS No. 224 include the requirements relevant to this petition. Each vehicle shall be equipped with a rear impact guard certified as meeting Federal Motor Vehicle Safety Standard No. 223.

Each guard shall be permanently labeled with the information specified in paragraphs S5.3 (a) through (c) of FMVSS No. 223. The information shall be in English and in letters that are at least 2.5mm high. The label shall be placed on the forward or rearward facing surface of the horizontal member of the guard, provided that the label does not interfere with the retroreflective sheeting required by paragraph S5.7.1.4.1(c) of FMVSS No. 108 (49 CFR 571.108), and is readily accessible for visual inspection. The label is required to containthe statement: ''Manufactured in __'' (inserting the month and year of guard manufacture.)

V. *Summary of Great Dane's Petition:* The following views and arguments are the views and arguments provided by Great Dane. They have not been evaluated by the agency and do not reflect the views of the agency.

Accordingly, Great Dane described the subject noncompliance and stated that the noncompliance is inconsequential as it relates to motor vehicle safety as follows:

1. This particular group of trailers has rear impact guard certification plates installed that include the name of the manufacturer, as well as the letters DOT. Great Dane believes that the omission of the date of manufacture to be an inconsequential type of noncompliance as it relates to vehicle safety.

2. Every trailer that Great Dane builds requiring a rear impact guard has, in addition, a certification plate (on the front of the trailer) that ensures the rear impact guard meets the Federal Standards. Therefore, the subject trailers have affixed to them certification plates certifying that the entire trailer, including the rear impact guard, meet and/or exceed all the Federal Motor Vehicle Safety Standards in effect on the date of manufacture as indicated.

3. Great Dane states that they believe the extra certification plate required on the rear impact guard is redundant, further stating that the Commercial Vehicle Safety Alliance (CVSA) filed a petition to both NHTSA and Federal Motor Carrier Safety Administration (FMCSA) to remove the requirement for the certification plate on the rear impact guard.

4. Great Dane has never installed a third-party produced rear impact guard on any of its trailers.

5. Due to the extreme age of the trailers in this group (13–16 years old), Great Dane believes that the notification and remedy process would not be very effective, as most of these trailers are probably no longer in service.

6. Great Dane states that in the long period that these trailers have been in service, they have only recently been given notice that the date of manufacture was omitted on the rear impact guard. The fact that this omission went unnoticed over a period of 13–16 years provides another reason Great Dane believes that this instance of noncompliance should be deemed inconsequential.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject trailers that Great Dane no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant trailers under their control after Great Dane notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2019–28373 Filed 1–2–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0098; Notice 1]

Toyota Motor North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Toyota Motor North America, Inc., (Toyota) has determined that certain model year (MY) 2019 Toyota Tacoma motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies.* Toyota filed a noncompliance report dated September 5, 2019. Toyota subsequently petitioned NHTSA on September 27, 2019 for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Toyota's petition.

DATES: Send comments on or before February 3, 2020.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. *Overview:* Toyota has determined that certain MY 2019 Toyota Tacoma Double Cab motor vehicles do not fully comply with paragraph S4.1 of FMVSS No. 209, *Seat Belt Assemblies* (49 CFR 571.209). Toyota filed a noncompliance report dated September 5, 2019 pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Toyota subsequently petitioned NHTSA on September 27, 2019 for an exemption from the notification and remedy requirements of 49 U.S.C Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Toyota's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercises of judgment concerning the merits of the petition.

II. *Vehicles Involved:* Approximately 70 MY 2019 Toyota Tacoma Double Cab motor vehicles, manufactured between July 25, 2019 and July 30, 2019, are potentially involved.

III. *Noncompliance:* Toyota explains that the noncompliance is that the subject vehicles are missing seat belt labels on the rear center seat belt assemblies and therefore, do not meet the requirements set forth in paragraph S4.1 of FMVSS No. 209. Specifically, the label which is sewn to the rear center seat belt may have been mistakenly removed while scanning the code on the label.

IV. *Rule Requirements:* Paragraph S4.1(j) of FMVSS No. 209 includes the requirements relevant to this petition. Each seat belt assembly shall be permanently and legibly marked or labeled with the year of manufacture, model, and name or trademark of manufacturer or distributor, or of importer if manufactured outside the United States.

V. *Summary of Toyota's Petition:* The following views and arguments presented in this section are the views and arguments provided by Toyota. They have not been evaluated by the Agency and do not reflect the views of the Agency.

Toyota described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

Toyota submitted the following views and arguments in support of the petition:

1. *The noncompliant seat belt assemblies were properly installed, and due to Toyota's replacement parts ordering systems, improper replacement seat belt assembly selection and installation would not be likely to occur:*

Toyota stated that the primary purpose of the seat belt label required by S4.1(j) of FMVSS No. 209 is to identify the seat belt in the event it needs to be replaced. Toyota contends that there are other means to identify the seat belt without looking at the label, and these methods are equally effective in identifying the correct seat belt to install in a vehicle in the event a replacement is needed.

According to Toyota, all the noncomplying seat belts were installed as original equipment in the subject vehicles and are unique to the Tacoma rear center seat; they cannot be properly installed in any other Tacoma seating positions and are not used on any other Toyota or Lexus models (Service replacement parts are not affected and contain required labels). Toyota also states that manufacturing processes and the unique properties of this center rear belt assembly matches the correct rear center seat belt with the rear seat that is tied to a specific VIN. Toyota states this

assures that an incorrect seat belt will not be installed in a vehicle during its assembly. If a seat belt replacement is needed, the service parts system would also preclude the purchase and installation of an improper replacement seat belt assembly. Toyota's petition contends that seat belt assembly service parts are ordered through the Toyota authorized dealership system using the seat belt assembly part number or the VIN and that replacement parts for the subject seat belt assemblies are not distributed through the general automotive aftermarket; they are only sold by Toyota dealers. Toyota also states that the seat belt retractor also has a separate label with the supplier part number which can further help identify the seat belt during replacement.

The Toyota petition further states that when a purchaser orders a seat belt replacement part, the installation instruction, usage, and maintenance instructions are included in the service parts packaging and clearly identifies that the seat belt is for a Toyota Tacoma and identifies the seat belt installation location. According to Toyota, these instructions comply with paragraph S4.1(k) of FMVSS No. 209.

Given the purpose of paragraph S4.1(j) of FMVSS No. 209 Toyota believes there are alternative methods as noted above that can be used to identify seat belts if they need to be replaced.

Therefore, Toyota states that the noncompliant seat belts as installed in the vehicle do not present a safety risk, and the chance of an incorrect seat belt being installed in a vehicle is essentially zero.

2. *In the event of a recall the seat belt installed in each vehicle can be identified based on the VIN:*

Another purpose of the labeling requirement in the standard is to allow for easier identification of a seat belt in the event a safety recall is initiated. Toyota states that traceability in the Toyota production system ensures the seat belts can be easily identified without the label specified in paragraph S4.1(j) of FMVSS No. 209.

Toyota again stated that each seat section and the center rear seat belt has a label with a code which is scanned into the seat supplier's system and tied to the VIN for traceability. In the event of a safety recall for this part, Toyota believes the VIN is a sufficient means of identifying the potentially affected vehicles. Therefore, Toyota states the absence of the label specified in the standard poses no risk to motor vehicle safety.

3. *The seat belt complies with all other requirements of FMVSS No. 209:*

The noncomplying seat belt assemblies may lack the required marking or labeling, but Toyota states all the seat belt assemblies meet all other requirements of the standard. According to Toyota, there is no impact to performance, functionality, or occupant safety.

4. *Toyota is unaware of any owner complaints, field reports, or allegations of hazardous circumstances concerning missing seat belt labels in the subject vehicles:*

Toyota has searched its records for reports or other information concerning the rear center seat belts in the subject vehicles. No owner complaints, field reports, or allegations of hazardous circumstances concerning missing seat belt labels were found.

5. *Toyota believes NHTSA has granted similar petitions for inconsequential noncompliance:*

Toyota cited four FMVSS No. 209 petitions for inconsequential noncompliance related to seat belt assemblies:

- Chrysler Corporation, 57 FR 45865 (October 5, 1992)
- TRW Inc., 58 FR 7171 (February 4, 1993)
- Bombardier Motor Corporation of America, 65 FR 60238 (October 10, 2000)
- Oreion, 80 FR 5616 (November 21, 2014)

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Toyota no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Toyota notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2019–28372 Filed 1–2–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Application by Survivors for Payment of Bond or Check Issued Under the Armed Forces Leave Act of 1946, as Amended

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Application by Survivors for Payment of Bond or Check Issued Under the Armed Forces Leave Act of 1946, as amended.

DATES: Written comments should be received on or before March 3, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application By Survivors for Payment of Bond or Check Issued Under the Armed Forces Leave Act of 1946, as amended.

OMB Number: 1530–0038.

Form Number: FS Form 2066.

Abstract: The information is requested to support payment of an Armed Forces Leave Bond or check issued under Section 6 of the Armed Forces Leave Act of 1946, as amended, where the owner died without assigning the bond to the Administrator of Veterans Affairs prior to payment, or without presenting the check for payment.

Current Actions: Revision of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 50.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 30, 2019.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2019–28422 Filed 1–2–20; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Request To Reissue U.S. Savings Bonds to a Personal Trust

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Request to Reissue U.S. Savings Bonds to a Personal Trust.

DATES: Written comments should be received on or before March 3, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request to Reissue U.S. Savings Bonds to a Personal Trust.

OMB Number: 1530–0036.

Form Number: FS Form 1851.

Abstract: The information is necessary to support a request for reissue of savings bonds in the name of the trustee of a personal trust estate.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 10,600.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 2,650.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 18, 2019.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2019–28421 Filed 1–2–20; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Minority Bank Deposit Program (MBDP) Certification Form for Admission

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Minority Bank Deposit Program (MBDP) Certification Form for Admission.

DATES: Written comments should be received on or before March 3, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Minority Bank Deposit Program (MBDP) Certification Form for Admission.

OMB Number: 1530–0001.

Form Number: FS Form 3144.

Abstract: The information collected on this form is used by financial institutions to apply for participation in the Minority Bank Deposit Program. Institutions approved for acceptance in the program are entitled to special assistance and guidance from Federal agencies, State and local governments, and private sector organizations.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 85.

Estimated Time per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 64.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 18, 2019.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2019–28423 Filed 1–2–20; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

United States Mint

Establish Prices for 2019 and 2020 United States Mint Numismatic Products

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing for United States Mint numismatic products in accordance with the table below:

Product	2020 Retail Price
2019 American Innovation™ $1 Reverse Proof Coin—New Jersey	$11.50
2019 American Innovation™ $1 Reverse Proof Coin—Georgia	11.50
2020 United States Mint America The Beautiful Quarters Proof Set™	18.50
2020 United States Mint America The Beautiful Quarters Silver Proof Set™	42.50
2020 United States Mint Proof Set®	32.00
2020 United States Mint Birth Set	23.00
2020 United States Mint Happy Birthday Coin Set	23.00
2020 United States Mint Congratulations Set	65.50
2020 America the Beautiful Quarters® Three-Roll Set—National Park of American Samoa	49.25
2020 America the Beautiful Quarters® Two-Roll Set—National Park of American Samoa	34.50
2020 America the Beautiful Quarters® Roll—National Park of American Samoa	19.75
2020 America the Beautiful Quarters® Bags—National Park of American Samoa	36.75
2020 America the Beautiful Quarters Three-Coin Set™—National Park of American Samoa Quarters	11.50
2020 America the Beautiful Five Ounce Uncirculated Silver Coin™—National Park of American Samoa	178.25
2020 Native American 1 Coin Rolls	34.50
2020 Native American 1 Coin 250-Coin Box	289.75
2020 Native American 1 Bags	117.50
2020 American Eagle One Ounce Silver Proof Coin	64.50
2020 American Eagle One Ounce Silver Proof Coin Bulk Pack	2,580.00
Andrew Jackson Presidential Silver Medal	46.00

FOR FURTHER INFORMATION CONTACT: Katrina McDow, Marketing Specialist, Sales and Marketing; United States Mint; 801 9th Street NW; Washington, DC 20220; or call 202–354–8495.

Authority: 31 U.S.C. 5111, 5112, 5132 & 9701.

Dated: December 30, 2019.

Patrick Hernandez,

Chief Administrative Officer, United States Mint.

[FR Doc. 2019–28401 Filed 1–2–20; 8:45 am]

BILLING CODE P

Reader Aids

Federal Register

Vol. 85, No. 2

Friday, January 3, 2020

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JANUARY

1–206 2
207–418 3

CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

14 CFR

Proposed Rules:
39 23
382 27

15 CFR

6 207

18 CFR

Proposed Rules:
35 265

25 CFR

Proposed Rules:
82 37

26 CFR

1 192

31 CFR

148 1

31 CFR

Proposed Rules:
210 265

33 CFR

165 (7 documents) 210, 212, 214, 216, 218, 222

Proposed Rules:
165 271

40 CFR

52 3

Proposed Rules:
52 (2 documents) 54, 59, 274

42 CFR

402 7
403 (2 documents) 7, 8
405 224
409 8
410 ..... 8, 224
411 (2 documents) 7, 8
412 ..... 7, 224
414 ..... 8, 224
415 8
416 ..... 8, 224
418 8
419 224
422 7
423 7
424 8
425 8
460 7
483 7
488 7
486 224
489 8
493 7
498 8

45 CFR

Proposed Rules:
147 276
158 276

47 CFR

54 230

Proposed Rules:
54 ..... 61, 277

49 CFR

243 10

50 CFR

17 164
600 250
635 (2 documents) 14, 17
679 19

Proposed Rules:
648 285

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List December 26, 2019

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.