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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4290

[Docket No. RBS–12–NONE–0002]

RIN 0570–AB01

Rural Business Investment Company (RBIC) Program

AGENCY: Rural Business-Cooperative Service, Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) published an interim rule on December 23, 2011, which made several revisions to the Rural Business Investment program. Through this action, RBS finalizes the rule based on public comments, amends its regulations, and incorporates new program requirements established in the Agriculture Improvement Act of 2018 Bill for the Rural Business Investment Program. This action, which affects some of the substantive aspects of the Rural Business Investment Program, is expected to decrease the time and workload necessary in carrying out the Rural Business Investment Program.

DATES: This rule is effective March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Sami Zarour, Director, Specialty Programs Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Avenue SW, Washington, DC 20250–3225; email: *Sami.Zarour@usda.gov;* telephone (202) 720–9549.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be non-significant for purposes of Executive Order (E.O.) 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Congressional Rulemaking Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this rule meets the applicable standards provided in section 3 of the Executive order. In addition, all state and local laws and regulations that conflict with this rule will be preempted. No retroactive effect will be given to this rule.

Executive Order 12372

These loans are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials. The Rural Business-Cooperative Service (RBS) conducts intergovernmental consultation for each RBIC loan in accordance with 2 CFR part 415, subpart C.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule, while affecting small entities, will not have an adverse economic impact on small entities. This rule does not impose any significant new requirements on program recipients, nor does it adversely impact proposed real estate transactions involving program recipients as the buyers.

National Environmental Policy Act/ Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, ''Environmental Policies.'' It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.860, Rural Business Investment Program. The Catalog is available on the internet at *https://beta.sam.gov.* The Government Publishing Office (GPO) prints and sells the CFDA to interested buyers. For information about purchasing the Catalog of Federal Domestic Assistance from GPO, call the Superintendent of Documents at 202–512–1800 or toll free at 866–512–1800, or access GPO's online bookstore at *http://bookstore.gpo.gov.*

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act 1995 (UMRA) of Public Law 104–4 establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, Rural Development generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires Rural Development to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act, to provide increased opportunities for citizens to access Government information and services electronically to the maximum extent possible.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on

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. Nor does this final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with states is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Rural Development has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a tribe would like to engage in consultation with Rural Development on this rule, please contact Rural Development's Native American Coordinator at (720) 544–2911 or *AIAN@usda.gov.*

Civil Rights Impact Analysis

Rural Development has reviewed this rule in accordance with USDA Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex or disability. Based on the review and analysis of the rule and available data, it has been determined that the program purpose, application submission and eligibility criteria, issuance of this final rule will neither adversely nor disproportionately impact low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their race, color, national origin, sex, age, disability, or marital or familial status.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection activities associated with this rule are covered under OMB Number: 0570–0051. This final rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995.

Background

I. Rural Business Investment Program

The Rural Business Investment Program (RBIP) promotes economic development and the creation of wealth and job opportunities among individuals living in rural areas and to help meet the equity capital investment needs primarily of smaller enterprises located in such areas. Under the RBIP, for-profit Rural Business Investment Companies (RBICs) make venture capital investments in rural areas with the objectives of fostering economic development in such areas and returning maximum profits to the RBIC's investors. The regulations set forth the criteria RBS uses to select and license RBICs, guarantee its debentures, and to make grants to RBICs.

The Food, Conservation, and Energy Program of 2008 (the 2008 Farm Bill) was enacted and affected several provisions of the RBIP regulation. Section 6027 of the 2008 Farm Bill resulted in the need for several regulatory modifications. The agency published an interim rule on December 23, 2011 at 76 FR 80217, with an effective date of January 23, 2012.

In addition, the Agency amended the program to allow RBICs to participate without financial leverage from the Agency. In response to the Interim rule, the agency received three comments from stakeholders. On December 21, 2018, the Agriculture Improvement Act of 2018 (the 2018 Farm Bill) was enacted and contained several statutory amendments affecting the RBIP. Section 6426 of the 2018 Farm Bill resulted in necessary amendments to 7 CFR part 4290, subpart F.

Lastly, the Agency is taking this opportunity to clarify several of the provisions of the regulation.

II. Summary of Changes

7 CFR Part 4290

Section 4290.50—Definitions

Rural Business Concern: The current rule defines a Rural Business Concern as an ''enterprise whose Principal Office is located in a Rural Area.'' By requiring the Rural Business Concern's principal office to be located in a rural area, the Agency has determined that this restriction is hampering the full implementation of the program. The statute authorizing the program defines a rural business concern, in part, as one that ''primarily operates in a rural area.'' By focusing on the location of the principal office, the Agency is unnecessarily limiting the effectiveness of the program. In addition, per the authorizing statute, the key aspect, as noted above, is that the rural business concern ''primarily operates in a rural area. The current definition misses this key feature. For these reasons, the Agency is revising the definition of ''rural business concern'' to align with the statutory definition.

Rural Business Concern Investment: The current rule defines a Rural Business Concern Investment as being ''located in a Rural Area at the time of the initial Financing.'' If the initial investment is made in a concern located in an area not considered Rural with the stipulation that the Concern will relocate to a Rural Area after initial financing, the current rules require the RBIC to carry the investment as a non-rural Investment. By requiring the RBIC to carry an investment as a non-rural Investment when the concern has relocated to Rural Area puts an undue burden on the RBIC. The intent of the program is to bring businesses and job opportunities to Rural Areas. So, if the investment was implemented to help facilitate the relocation of the business to a Rural Area, the RBIC should be able to reclassify the initial investment as a ''Rural Business Concern Investment.''

- In addition, the definitions are being revised to be consistent with the 2018 Farm Bill and to remove various other definitions that are no longer needed. These include: Revising Urban Area Investment, Developmental Venture Capital, Rural Business Concern, and Rural Business Concern Investment; adding Agency; and deleting Principal Office, Secretary, Small Business Concern, Small Business Concern Investment.

Section 4290.210—Minimum Capital Requirements for RBICs

The current regulation requires an RBIC to raise the amount of funds it has identified in its application by the end of the second year from when it receives its ''green light'' letter. However, the current regulation does not adequately address situations in which the RBIC may raise and close on capital in increments before the end of second year. Such multiple closing is not uncommon when for competing private equity funds. To better align the program with the realities of raising private equity funds, the Agency is adding a new paragraph to this section (see § 4290.210(d)) that specifically allows for multiple closings.

Section 4290.330—Grant Issuance Fee

In order to implement language from the 2018 Farm Bill, the Agency is removing the $500 cap on guarantee fees the Secretary may charge and revising the paragraph. Any fee charged will be published in the **Federal Register** and published on the Rural Development website.

Section 4280.700—Requirements Concerning Types of Enterprises To Receive Financing

The Agency is revising the requirements found in this section in three ways, as described below.

1. The current regulation identifies minimum levels of financing that must be received by rural business concerns, smaller enterprises, and small business concerns and a maximum level of financing that can go to urban area investments. The authorizing statute contains requirements for the minimum percentage of financings that must be received by rural business concerns and that maximum percentage that can be received in urban areas; it does not specifically identify similar requirements for either smaller enterprises or small business concern investments.

The Agency is keeping the financial requirements for smaller enterprise investments because of the emphasis in the statue. The Agency is, however, dropping the financing percentage requirements for small business concern investments (*i.e.,* removing § 4290.700(c) from the regulation). This simplifies the implementation of the program and helps reduce potential overlap with programs administered by the Small Business Administration.

2. The current regulation requires the percentage requirements to be met on both the percentage of the number of concerns receiving Financing within the RBIC's portfolio and the percentage of dollars the RBIC provides to the concerns in its portfolio. Requiring both percentages to be met unnecessarily complicates the program. Therefore, the Agency is revising the percentage requirements to be applied to the amount of dollars the RBIC spends on concerns in the three remaining areas (*i.e.,* rural business concerns, smaller businesses, and urban areas).

3. The current regulation requires RBICs to comply with the Financing percentages starting the first year after issuance of the certificate. This is unnecessarily restrictive and does not allow an RBIC sufficient time to implement the program. Therefore, the Agency is revising the regulation to require that the Financing percentages be met by the third year after the RBIC receives its certificate, and each subsequent year thereafter.

- Removing reference to Small Business Concern/Small Business Concern Investment in §§ 4290.370(h), 4290.610(b), and 4290.760(a). The authorizing statute for RBIC does not require Small Business Concerns and the agency is removing this reference to allow for more flexibility for RBICs.

Section 4290.720(g)—Foreign Investment Exceptions

In general, the current regulation prohibits Financings to an enterprise if the funds will be used substantially for a foreign operation or more than 49 percent of the employees or tangible assets of the enterprise are located outside the United States. The current regulation has one exception—allowing a financing used to acquire foreign materials and equipment or foreign property rights for use or sale in the United States.

The Agency has determined that the restriction on financing of foreign investments is unnecessarily restrictive—it is prohibiting investments in rural America that will provide more opportunities for job creation and general economic stimulus. Therefore, the Agency is adding a second exception that will allow the financing of a subsidiary of foreign owned entities when that subsidiary is based in the United States with a minimum of 51 percent U.S. ownership (see § 4290.720(g)(2)(ii)).

Section 4290.720(i)—Entities Ineligible for Farm Credit System Assistance

This rule will increase the limitation on rural business investment companies controlled by Farm Credit System institutions from 25% to 50% before the rural investment company is prohibited from providing equity investments to companies that are not otherwise eligible to receive financing from the Farm Credit System.

Section 4290.720(k)—Changes in Ownership of an Enterprise

The current regulation requires an RBIC to obtain Agency approval whenever there has been a change in ownership. This provision is an unnecessary burden to RBICs because every financing involving equity capital triggers a change in ownership. Furthermore, the appropriate change should be in the change of control (not ownership) in the rural business concern. Change of control occurs when more than 50 percent of the concern exchanges hands. The Agency, therefore, is revising this provision to require Agency approval when there is change of more than 50 percent of control.

Remove the Word ''Secretary'' and Replace With ''Agency.''

The current RBIP rule refers throughout to the ''Secretary'' (that is, the Secretary of Agriculture) in a number of contexts. A substantial number of these references involve an action by the Secretary, such as approvals, delegations, and determinations. The Administrator, Rural Business-Cooperative Service is delegated authority through 7 CFR 2.48(a)(2)(xiii) to administer the Rural Business Investment Program. Therefore, all references to ''Secretary'' are being revised to reflect the delegation to the Rural Business-Cooperative Service throughout 7 CFR part 4290.

III. Summary of Comments and Responses From Prior Rulemaking

On December 23, 2011, the Rural Business Cooperatives Service (RBS) published an interim rule in the **Federal Register** (76 FR 80217) to conform the Rural Business Investment Program (RBIP) to the 2008 Farm Bill, to add provisions for Rural Business Investment Companies (RBIC) that wish to participate in a non-leveraged capacity, and to make several clarifications to the existing rule for leveraged RBICs. In addition, this rule amended the categorical exclusions from the National Environmental Policy Act by adding categorical exclusions for the RBIP for both leveraged and non-leveraged RBICs.

Three commenters—1 from a sponsoring organization and 2 from industry associations, provided a total of 29 comments in response to the interim rule. One comment was supportive of the changes to the rule. Commenter indicated that the change to the program in general would help support rural communities and economic development. There were 4 comments that were neither supportive nor adverse. There were 24 comments that were averse to certain changes in the interim rule, below are listed the substantive comments.

Comments on rural area: One comment supported the direction that UDSA set forth in the interim rule and believes that the USDA has identified an appropriate balance between a regulatory framework that can improve the long-term viability of a non-leverage RBIC while still allowing sufficient flexibility, either expressly or by providing the Secretary with the

opportunity to exercise discretion to accommodate unique circumstances.

The four indifferent comments included one wanting some confirmation that Community Reinvestment Act (CRA) Credits will be available for community banks. One commenter wanted to work with the program to make it workable with their clients. Two comments wanted the Agency to provide participation requirements for non-leveraged RBICs and work with the associations to survey its members.

Response: The Agency acknowledges the supportive and indifferent comments, and no action is needed for those comments. RBS disagrees with the following adverse comments.

Non-Supportive Comments: Five comments suggested that the rule should have been issued as a proposed rule or final rule instead of an interim rule.

Response: The Administrative Procedures Act (APA) (5 U.S.C. 553(a)(2)) provides that notice and comment is not required with respect to rules involving listed subject matters areas including ''loans, grants, benefits and contracts.'' At the time the interim rule was issued, it was the policy of USDA to issue a proposed rule even though this exemption applied unless the agency found for good cause that an interim rule instead of a final rule was in the public interest. On October 28, 2013 (78 FR 64194), USDA published a notice in the **Federal Register** revoking this policy of seeking notice and comment when the provisions of 5 U.S.C. 553(a)(3) were otherwise applicable. As stated in the preamble of the interim rule, RBS determined that good cause existed for the issuance of an interim rule; notably, the degree of similarity between this program and Small Business Administration's (SBA) Small Business Investment Company (SBIC) and New Market Venture Capital (NMVC) programs. RBS determined at that time that little was to be gained from a delay in implementing the program for public comment. USDA minimized administrative burdens by adopting as much of the SBA's SBIC and NMVC programs as possible. Accordingly, the interim rule imposed a minimum number of unfamiliar requirements from the SBIC and NMVC programs and the rule should be very familiar to applicants currently participating in either of those programs.

Non-Supportive Comments: One comment suggested that SBA should administer the program.

Response: The comment is not attributable to the interim rule as it does not address how the Agency will implement the non-leverage program. The RBIP program will be administered by the Administrator of the Rural Business and Cooperative Service.

Non-Supportive Comments: One comment suggested that the rule will have significant impact on a substantial number of small entities.

Response: The Agency disagrees with the concern that the rule will have a significant impact on a substantial number of small entities. The comment is attributed to the preamble section ''Regulatory Flexibility Act Certification,'' which is intended to address the regulatory burden a rule imposed on small entities.

Non-Supportive Comments: One comment was concerned about the definition of rural being subjective and open-ended.

Response: The Agency disagrees that the definition of rural is subjective and open-ended. The definition of ''Rural in character'' is statutorily required and will be determined by USDA for this and its other regulations.

Non-Supportive Comments: Ten comments were concerned about Federal Credit Administration (FCA) administering the RBIP.

Response: The RBIP program will be administered by the Administrator of the Rural Business and Cooperative Service.

Non-Supportive Comments: Six comments requested including local and community banks in the RBIP.

Response: The Agency and the program makes every effort to work with community and local banks.

IV. Rural Business Investment Program Applications

As provided in 7 CFR 4290.300, a Notice of Solicitation for Applications (NOSA) will be published separately for each fiscal year, as necessary, to announce any special limitations and the opening and closing dates for the application window.

List of Subjects in 7 CFR Part 4290

Community development, Government securities, Grant programs—business, Securities, Small businesses.

Therefore, chapter XLII, title 7 of the Code of Federal Regulations is amended as follows:

PART 4290—RURAL BUSINESS INVESTMENT COMPANY (''RBIC'') PROGRAM

■ 1. The authority citation for part 4290 continues to read as follows:

Authority: 7 U.S.C. 1989 and 2009cc *et seq.*

■ 2. In part 4290, wherever they may occur:
■ a. Remove the word ''Secretary'' and add in its place ''Agency'';
■ b. Remove the word ''Secretary's'' and add in its place ''Agency's'';
■ c. Remove the words ''his or her'' and add in their place ''its'';
■ d. Remove the words ''he or she'' and add in their place ''it'';
■ e. Remove the words ''him or her'' and add in their place ''it'';
■ f. Remove the words ''him or herself'' and add in their place ''itself'';
■ g. Remove the words ''himself or herself'' and add in their place ''itself''; and
■ h. Remove the word ''Venture''.

Subpart B—Definition of Terms Used in Part 4290

■ 3. Amend § 4290.50 by:
■ a. Adding the definition for ''Agency'' in alphabetical order;
■ b. Removing the definition of ''Principal Office;''
■ c. Revising the definitions ''Rural Business Concern'' and ''Rural Business Concern Investment;''
■ d. Removing the definition of ''Agency'' following the definition of ''Secondary Relative'' and the definitions of ''Small Business Concern'' and ''Small Business Concern Investment;''
■ e. In the definition for ''Urban Area Investment,'' removing the words ''whose Principle Office was located'' and adding in their place ''that primarily operates.''

The addition and revisions read as follows:

§ 4279.50 Definition of terms.

* * * * *

Agency means the Rural Business-Cooperative Service (RBS) an agency of the U.S. Department of Agriculture.

* * * * *

Rural Business Concern means an Enterprise that primarily operates in a Rural Area.

Rural Business Concern Investment means a Financing in a Rural Business Concern at the time of the initial Financing or if the initial Financing is to facilitate a relocation from a Non-rural Area to a Rural Area after that initial Financing.

* * * * *

Subpart C—Qualifications for the RBIC Program

■ 4. Amend § 4290.210 by adding paragraph (d) to read as follows:

§ 4290.210 Minimum capital requirements for RBICs.

* * * * *

(d) *Closing.* Each RBIC may conduct more than one closing to raise the specific amount of Regulatory Capital that the Applicant had projected in its application that it would raise (see § 4290.310(b)). One or more closings may take place subsequent to licensing as an RBIC to raise the difference between the required Regulatory Capital as provided under paragraphs (a) and (b) of this section and the specific amount of Regulatory Capital that the Applicant had projected to raise in its application.

§ 4290.230 [Amended]

■ 5. Amend § 4290.230(c)(5) by removing the word ''collectibility'' and adding in its place ''collectability''.

Subpart D—Application and Approval Process for RBIC Licensing

■ 6. Revise § 4290.330 to read as follows:

§ 4290.330 Guarantee fee.

In cases of Leveraged Applications, the Applicant must pay to the Agency an issuance fee for each grant or debenture guarantee. The Agency may charge such fees as the Agency considers appropriate, so long as those fees are proportionally equal for each rural business investment company, with respect to any guarantee or grant issued under this subchapter.

Subpart E—Evaluation and Selection of RBICs

§ 4290.340 [Amended]

■ 7. Amend § 4290.340 introductory text by removing ''Agency on behalf of USDA'' and adding in its place ''Administrator of RBS''.

■ 8. Amend § 4290.370 by revising the introductory text and paragraph (h) to read as follows:

§ 4290.370 Evaluation criteria.

Of those Applicants whose management team is considered qualified for venture capital investing and who have submitted an eligible and complete application, the Administrator of RBS and the Administrator on behalf of SBA, in their sole discretion, will evaluate and select an Applicant for participation in the RBIC program by considering the following criteria:

* * * * *

(h) The extent to which the Applicant will concentrate its activities on serving Smaller Enterprises located in the Rural Area in which it intends to invest, including the ratio of resources that it proposes to invest in such Enterprises as compared to other Enterprises;

* * * * *

■ 9. Amend § 4290.380 by revising the first sentence to read as follows:

§ 4290.380 Selection.

From among the Applicants that have submitted eligible and complete applications, the Administrator of RBS and the Administrator on behalf of SBA, in their sole discretion, will select some, all, or none of such Applicants to participate in the RBIC program. * * *

■ 10. Amend § 4290.390 by revising paragraph (b) to read as follows:

§ 4290.390 Licensing as a RBIC.

* * * * *

(b) *Licensing as a RBIC.* If the selected Applicant has satisfactorily met all the conditions specified in paragraph (a) of this section, as determined within the sole discretion of the Agency, then the Administrator of RBS and the Administrator on behalf of SBA will license the Applicant as a RBIC.

* * * * *

Subpart H—Recordkeeping, Reporting, and Examination Requirements for RBICs

§ 4290.610 [Amended]

■ 11. Amend § 4290.610 by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

Subpart I—Financing of Enterprises by RBICs

■ 12. Revise § 4290.700 to read as follows:

§ 4290.700 Requirements concerning types of Enterprises to receive Financing.

(a) *Financing requirements.* Beginning after the third fiscal year after the issuance of your RBIC license and at the close of each of your fiscal years thereafter, you must be in compliance with the Financing percentages specified in this paragraph (a).

(1) *Rural Business Concerns.* At least 75 percent of your Financings (in total dollars) to your Portfolio Concerns must have been to Rural Business Concerns.

(2) *Smaller Enterprises.* More than 50 percent of your Financings (in total dollars) to your Portfolio Concerns must have been to Smaller Enterprises that, at the time of the initial Financing to such Enterprise, meet either the net worth/net income test or the size standard set forth in the ''Smaller Enterprise'' definition in § 4290.50.

(3) *Urban Areas.* No more than 10 percent of your Financings (in total dollars) to your Portfolio Concerns must have been made to Portfolio Concerns located in an Urban Area.

(b) *Non-compliance.* If you are not in compliance with any of the Financing percentages specified in paragraph (a) of this section at the end of the third fiscal year after the issuance of your RBIC license or any fiscal year thereafter, you must come into compliance by the end of the following fiscal year. For as long as you remain out of compliance, you are not eligible for additional Leverage (see § 4290.1120).

■ 13. Amend § 4290.720 by:
■ a. Revising paragraph (g)(2);
■ b. In paragraph (i), removing ''25 percent'' and adding in its place ''50 percent''; and
■ c. In paragraph (k), removing ''of ownership'' from the heading and adding ''in control'' in its place and removing ''ownership of'' and adding ''more than 50 percent control of'' in its place.

The revision reads as follows:

§ 4290.720 Enterprises that may be ineligible for Financing.

* * * * *

(g) * * *

(2) *Exception.* This paragraph (g) does not prohibit either:

(i) A Financing used to acquire foreign materials and equipment or foreign property rights for use or sale in the United States; or

(ii) A Financing in a subsidiary based in the United States of foreign-owned entities with at least 51 percent U.S. ownership.

* * * * *

§ 4290.760 [Amended]

■ 14. Amend § 4290.760(a) by removing the words ''or Small Business Concern''.

Dated: March 13, 2020.

Mark Brodziski,

Acting Administrator, Rural Business-Cooperative Service.

Dated: March 13, 2020.

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2020–05746 Filed 3–23–20; 8:45 am]

BILLING CODE 3410–XY–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R–1700; RIN 7100–AF 74]

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') has

adopted final amendments to its Regulation A to reflect the Board's approval of a decrease in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically decreased by formula as a result of the Board's primary credit rate action.

DATES:

Effective date: The amendments to part 201 (Regulation A) are effective March 24, 2020.

Applicability date: The rate changes for primary and secondary credit were applicable on March 16, 2020.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Special Counsel (202–452–3565), Legal Division, or Lyle Kumasaka, Lead Financial Institution & Policy Analyst (202–452–2382), or Laura Lipscomb, Assistant Director (202–912–7964), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to review and determination of the Board.

On March 15, 2020, the Board voted to approve a 1.50 percentage point decrease in the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby decreasing from 1.75 percent to 0.25 percent the rate that each Reserve Bank charges for extensions of primary credit. In addition, the Board had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate in effect at each of the twelve Federal Reserve Banks decreased by 1.50 percentage point as a result of the Board's primary credit rate action, thereby decreasing from 2.25 percent to 0.75 percent the rate that each Reserve Bank charges for extensions of secondary credit. The amendments to Regulation A reflect these rate changes.

The 1.50 percentage point decrease in the primary credit rate was associated with a 1.00 percentage point decrease in the target range for the federal funds rate (from a target range of 1 percent to 1¼ percent to a target range of zero percent to ¼ percent) announced by the Federal Open Market Committee on March 15, 2020, as described in the Board's amendment of its Regulation D published elsewhere in today's **Federal Register**.

Administrative Procedure Act

In general, the Administrative Procedure Act (''APA'')[1] imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be ''unnecessary, impracticable, or contrary to the public interest.''[2] Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.[3] The APA further provides that the notice, public comment, and delayed effective date requirements of 5 U.S.C. 553 do not apply ''to the extent that there is involved . . . a matter relating to agency management or personnel or to public property, *loans,* grants, benefits, or contracts.''[4]

Regulation A establishes the interest rates that the twelve Reserve Banks charge for extensions of primary credit and secondary credit. The Board has determined that the notice, public comment, and delayed effective date requirements of the APA do not apply to these final amendments to Regulation A. The amendments involve a matter relating to loans and are therefore exempt under the terms of the APA. Furthermore, because delay would undermine the Board's action in responding to economic data and conditions, the Board has determined that ''good cause'' exists within the meaning of the APA to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to the final amendments to Regulation A.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[5] As noted previously, a general notice of proposed rulemaking is not required if the final rule involves a matter relating to loans. Furthermore, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (''PRA'') of 1995,[6] the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

12 CFR Chapter II

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR Chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.,* 347a, 347b, 347c, 348 *et seq.,* 357, 374, 374a, and 461.

■ 2. In § 201.51, paragraphs (a) and (b) are revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.[3]

(a) *Primary credit.* The interest rate at each Federal Reserve Bank for primary credit provided to depository institutions under § 201.4(a) is 0.25 percent.

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for

[1] 5 U.S.C. 551 *et seq.*

[2] 5 U.S.C. 553(b)(3)(A).

[3] 5 U.S.C. 553(d).

[4] 5 U.S.C. 553(a)(2) (emphasis added).

[5] 5 U.S.C. 603, 604.

[6] 44 U.S.C. 3506; see 5 CFR part 1320 Appendix A.1.

[3] The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

secondary credit provided to depository institutions under § 201.4(b) is 0.75 percent.

* * * * *

[3] The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

By order of the Board of Governors of the Federal Reserve System, March 16, 2020.

Ann Misback,

Secretary of the Board.

[FR Doc. 2020–05804 Filed 3–23–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1702; RIN 7100–AF 76]

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim final rule, request for public comment.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is amending its Regulation D (Reserve Requirements of Depository Institutions, 12 CFR part 204) to lower reserve ratios on transaction accounts maintained at depository institutions to zero percent.

DATES:

Effective date: The amendments to part 204 (Regulation D) are effective on March 24, 2020.

Applicability date: The changes to reserve requirement ratios are applicable on March 26, 2020.

Comments: Comments must be received on or before May 26, 2020.

ADDRESSES: You may submit comments, identified by Docket Number R–1702; RIN 7100–AF 76, by any of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Special Counsel, (202–452–3565), Legal Division, or Matthew Malloy (202–452–2416), Division of Monetary Affairs, or Heather Wiggins (202–452–3674), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 19 of the Federal Reserve Act (the ''Act'') imposes reserve requirements on certain types of deposits and other liabilities of depository institutions. Specifically, section 19(b)(2) of the Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities, as prescribed by Board regulations, for the purpose of implementing monetary policy. Reserve requirements for nonpersonal time deposits and Eurocurrency liabilities have been set at zero percent since 1990.

Depository institutions satisfy reserve requirements by maintaining cash in their vault or, if vault cash is insufficient, by maintaining a balance in an account at a Federal Reserve Bank. The amount that a depository institution must maintain is known as the depository institution's reserve requirement. *See* 12 CFR 204.4 (computation of reserve requirements). The amount that a depository institution must maintain in an account at a Reserve Bank over and above the amount of its vault cash is known as the depository institution's reserve balance requirement. 12 CFR 204.2(ee) (definition of ''reserve balance requirement''). Currently, over 2,500 depository institutions maintain, in aggregate, $150 billion in account balances to satisfy reserve balance requirements.

Transaction account balances maintained at each depository institution are subject to reserve requirement ratios of zero, three, or ten percent. Section 19(b)(11)(A) of the Act (12 U.S.C. 461(b)(11)(A)) provides that a zero percent reserve requirement shall apply at each depository institution to total reservable liabilities that do not exceed a certain amount, known as the reserve requirement exemption amount. Section 19(b)(2) of the Act (12 U.S.C. 461(b)(2)) provides that transaction account balances maintained at each depository institution over the reserve requirement exemption amount and up to a certain amount, known as the low reserve tranche, are subject to a three percent reserve requirement. Transaction account balances over the low reserve tranche are subject to a ten percent reserve requirement. The reserve requirement exemption amount and the low reserve tranche are adjusted annually pursuant to formulas set forth in the Act.

The reserve requirement ratios implemented by the Board pursuant to Section 19 of the Act are set forth in Section 204.4(f) of Regulation D. Currently, the reserve requirement exemption amount is $16.9 million, and the low reserve tranche amount is $127.5 million.

II. Discussion

A. Recent Developments

For many years, reserve requirements played a central role in the implementation of monetary policy by creating a stable demand for reserves. In January 2019, the FOMC announced its intention to implement monetary policy in an ample reserves regime. Reserve requirements do not play a significant role in this operating framework. In light of the shift to an ample reserves regime, the Board has determined to reduce the reserve requirement ratios to zero percent effective March 26, 2020. This action eliminates reserve requirements for thousands of depository institutions and will help to support lending to households and businesses.

III. Request for Comment

The Board seeks comment on all aspects of this interim final rule.

IV. Administrative Procedure Act

In accordance with the Administrative Procedure Act (''APA'') section 553(b) (5 U.S.C. 553(b)), the Board finds, for good cause, that providing notice and an opportunity for public comment before the effective date of this rule would be contrary to the public interest. In addition, pursuant to APA section 553(d) (5 U.S.C. 553(d)), the Board finds good

cause for making this amendment effective without 30 days advance publication. By improving the liquidity position of depository institutions subject to reserve requirements, implementation of the rule without 30 days advance publication could help alleviate pressures in short-term funding markets as well as support depository institutions' ability to provide financing to households and businesses. The Board believes that any delay in implementing the rule would prove contrary to the public interest. The Board is requesting comment on all aspects of the rule and will make any changes that it considers appropriate or necessary after review of any comments received.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act requires an agency that is issuing a final rule to prepare and make available a regulatory flexibility analysis that describes the impact of the final rule on small entities. 5 U.S.C. 603(a). The Regulatory Flexibility Act provides that an agency is not required to prepare and publish a regulatory flexibility analysis if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

Pursuant to section 605(b), the Board certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities. The interim final rule reduces reserve requirement ratios for all depository institutions to zero percent. All depository institutions, including small depository institutions, will benefit from the elimination of reserve requirements. There are no new reporting, recordkeeping, or other compliance requirements associated with the interim final rule.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the interim final rule under authority delegated to the Board by the Office of Management and Budget. The rule contains no collections of information pursuant to the Paperwork Reduction Act.

VII. Plain Language

Section 772 of the Gramm-Leach-Bliley Act requires the Board to use ''plain language'' in all proposed and final rules. In light of this requirement, the Board has sought to present the interim final rule in a simple and straightforward manner. The Board invites comment on whether the Board could take additional steps to make the rule easier to understand.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

■ 2. In § 204.4, paragraph (f) is revised to read as follows:

§ 204.4 Computation of required reserves.

* * * * *

(f) For all depository institutions, Edge and Agreement corporations, and United States branches and agencies of foreign banks, required reserves are computed by applying the reserve requirement ratios in table 1 to this paragraph (f) to net transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities of the institution during the computation period.

TABLE 1 TO PARAGRAPH (f)

Reservable liability	Reserve requirement
Net Transaction Accounts:	
$0 to reserve requirement exemption amount ($16.9 million)	0 percent of amount.
Over reserve requirement exemption amount ($16.9 million) and up to low reserve tranche ($127.5 million)	0 percent of amount.
Over low reserve tranche ($127.5 million)	0 percent of amount.
Nonpersonal time deposits	0 percent.
Eurocurrency liabilities	0 percent.

By order of the Board of Governors of the Federal Reserve System, March 16, 2020.

Ann Misback,

Secretary of the Board.

[FR Doc. 2020–05806 Filed 3–23–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1701; RIN 7100–AF 75]

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is amending Regulation D (Reserve Requirements of Depository Institutions) to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements (''IORR'') and the rate of interest paid on excess balances (''IOER'') maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 0.10 percent and IOER is 0.10 percent, a 1.00 percentage point decrease from their prior levels. The amendments are intended to enhance the role of IORR and IOER in maintaining the Federal funds rate in the target range established by the Federal Open Market Committee (''FOMC'' or ''Committee'').

DATES: *Effective date:* The amendments to part 204 (Regulation D) are effective March 24, 2020.

Applicability date: The IORR and IOER rate changes are applicable on March 16, 2020.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Special Counsel (202–452–3565), Legal Division, or Francis Martinez, Senior Financial Institution & Policy Analyst (202–245–4217), or Laura Lipscomb, Assistant Director (202–912–7964), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

For monetary policy purposes, section 19 of the Federal Reserve Act (''Act'') imposes reserve requirements on certain types of deposits and other liabilities of depository institutions.[1] Regulation D, which implements section 19 of the Act, requires that a depository institution meet reserve requirements by holding cash in its vault, or if vault cash is insufficient, by maintaining a balance in an account at a Federal Reserve Bank (''Reserve Bank'').[2] Section 19 also provides that balances maintained by or on behalf of certain institutions in an account at a Reserve Bank may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.[3] Institutions that are eligible to receive earnings on their balances held at Reserve Banks (''eligible institutions'') include depository institutions and certain other institutions.[4] Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.[5] Prior to these amendments, Regulation D specified a rate of 1.10 percent for both IORR and IOER.[6]

II. Amendments to IORR and IOER

The Board is amending § 204.10(b)(5) of Regulation D to specify that IORR is 0.10 percent and IOER is 0.10 percent. The amendments represent a 1.00 percentage point decrease in IORR and IOER. The amendments to each rate were associated with a decrease in the target range for the federal funds rate, from a target range of 1 to 1¼ percent to a target range of 0 to ¼ percent, announced by the FOMC on March 15, 2020 with an effective date of March 16, 2020. The FOMC's press release on the same day as the announcement noted that:

> The coronavirus outbreak has harmed communities and disrupted economic activity in many countries, including the United States. Global financial conditions have also been significantly affected. Available economic data show that the U.S. economy came into this challenging period on a strong footing. Information received since the Federal Open Market Committee met in January indicates that the labor market remained strong through February and economic activity rose at a moderate rate. Job gains have been solid, on average, in recent months, and the unemployment rate has remained low. Although household spending rose at a moderate pace, business fixed investment and exports remained weak. More recently, the energy sector has come under stress. On a 12-month basis, overall inflation and inflation for items other than food and energy are running below 2 percent. Market-based measures of inflation compensation have declined; survey-based measures of longer-term inflation expectations are little changed.
>
> Consistent with its statutory mandate, the Committee seeks to foster maximum employment and price stability. The effects of the coronavirus will weigh on economic activity in the near term and pose risks to the economic outlook. In light of these developments, the Committee decided to lower the target range for the federal funds rate to 0 to ¼ percent. The Committee expects to maintain this target range until it is confident that the economy has weathered recent events and is on track to achieve its maximum employment and price stability goals. This action will help support economic activity, strong labor market conditions, and inflation returning to the Committee's symmetric 2 percent objective.

A Federal Reserve Implementation note released simultaneously with the announcement stated:

> The Board of Governors of the Federal Reserve System voted unanimously to set the interest rate paid on required and excess reserve balances at 0.10 percent, effective March 16, 2020.

As a result, the Board is amending § 204.10(b)(5) of Regulation D to change IORR to 0.10 percent and IOER to 0.10 percent.

III. Administrative Procedure Act

In general, the Administrative Procedure Act (''APA'')[7] imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be ''unnecessary, impracticable, or contrary to the public interest.''[8] Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.[9]

The Board has determined that good cause exists for finding that the notice, public comment, and delayed effective date provisions of the APA are unnecessary, impracticable, or contrary to the public interest with respect to these final amendments to Regulation D. The rate changes for IORR and IOER that are reflected in the final amendments to Regulation D were made with a view towards accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. Notice and public comment would prevent the Board's action from being effective as promptly as necessary in the public interest and would not otherwise serve any useful purpose. Notice, public comment, and a delayed effective date would create uncertainty about the finality and effectiveness of the Board's action and undermine the effectiveness of that action. Accordingly, the Board has determined that good cause exists to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to these final amendments to Regulation D.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[10] As noted previously, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (''PRA'') of 1995,[11] the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR part 204 as follows:

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[1] 12 U.S.C. 461(b).

[2] 12 CFR 204.5(a)(1).

[3] 12 U.S.C. 461(b)(1)(A) & (b)(12)(A).

[4] See 12 U.S.C. 461(b)(1)(A) & (b)(12)(C); see also 12 CFR 204.2(y).

[5] See 12 U.S.C. 461(b)(12)(B).

[6] See 12 CFR 204.10(b)(5).

[7] 5 U.S.C. 551 *et seq.*

[8] 5 U.S.C. 553(b)(3)(A).

[9] 5 U.S.C. 553(d).

[10] 5 U.S.C. 603, 604.

[11] 44 U.S.C. 3506; see 5 CFR part 1320 Appendix A.1.

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 461, 601, 611, and 3105.

■ 2. Section 204.10 is amended by revising paragraph (b)(5) to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) * * *

(5) The rates for IORR and IOER are:

TABLE 1 TO PARAGRAPH (b)(5)

	Rate (percent)
IORR	0.10
IOER	0.10

* * * * *

By order of the Board of Governors of the Federal Reserve System, March 16, 2020.

Ann Misback,

Secretary of the Board.

[FR Doc. 2020–05805 Filed 3–23–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1238

RIN 2590–AB05

Stress Testing of Regulated Entities

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is adopting a final rule that amends its stress testing rule, consistent with section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). These amendments adopt the proposed amendments without change to modify the minimum threshold for the regulated entities to conduct stress tests increased from $10 billion to $250 billion; removal of the requirements for Federal Home Loan Banks (Banks) subject to stress testing; and removal of the adverse scenario from the list of required scenarios. These amendments align FHFA's rule with rules adopted by other financial institution regulators that implement the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) stress testing requirements, as amended by EGRRCPA.

DATES: *This rule is effective:* March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Naa Awaa Tagoe, Senior Associate Director, Office of Financial Analysis, Modeling and Simulations, (202) 649–3140, *naaawaa.tagoe@fhfa.gov;* Karen Heidel, Assistant General Counsel, Office of General Counsel, (202) 649–3073, *karen.heidel@fhfa.gov;* or Mark D. Laponsky, Deputy General Counsel, Office of General Counsel, (202) 649–3054, *mark.laponsky@fhfa.gov.* The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 401 of the EGRRCPA, (Pub. L. 115–174, section 401) amended the Dodd-Frank Act requirements to implement stress testing. Prior to the passage of the EGRRCPA,[1] section 165(i) of the Dodd-Frank Act[2] required each financial company with total consolidated assets of more than $10 billion to conduct annual stress tests. In addition, section 165 required FHFA to issue regulations for regulated entities to conduct their stress tests, which were required to include at least three different stress testing scenarios: ''baseline,'' ''adverse,'' and ''severely adverse.''[3] In September 2013, FHFA published in the **Federal Register** a final rule implementing the Dodd-Frank Act stress testing requirements. FHFA's regulation, located at 12 CFR part 1238, requires each regulated entity to conduct an annual stress test based on scenarios provided by FHFA and consistent with FHFA prescribed methodologies and practices. The regulation also requires that the agency issue to the regulated entities stress test scenarios that are generally consistent with and comparable to those developed by the FRB not later than 30 days after the FRB publishes its scenarios.[4]

Section 401 of EGRRCPA amended certain aspects of the stress testing requirements applicable to financial companies in section 165(i) of the Dodd-Frank Act.[5] Specifically, after 18 months, section 401 of EGRRCPA raises the minimum asset threshold for application of the stress testing requirement from $10 billion to $250 billion in total consolidated assets, revises the requirement for financial companies to conduct stress tests ''annually,'' and instead requires them to conduct stress tests ''periodically'', and no longer requires the stress test to include an ''adverse'' scenario, thus reducing the number of required stress test scenarios from three to two.

II. Discussion of Public Comments

On December 16, 2019, FHFA published in the **Federal Register** proposed amendments to the stress testing requirements for the regulated entities. The comment period closed on January 15, 2020. FHFA received one comment which stated that the threshold of $250 billion in total consolidated assets was too high and lowering the threshold to $100 billion in total consolidated assets would be more appropriate. EGRRCPA set the threshold at $250 billion in total consolidated assets and the proposed rule reflects this statutory requirement. The Enterprises will continue to be covered by the rule at its new threshold, however, the Banks will not. After several years of assessing the Banks' stress tests, FHFA believes that its other supervision tools are sufficient for the agency's purposes, and that the additional burden on the Banks of conducting the annual stress tests is not necessary. FHFA retains under its general supervisory powers the discretion to require stress testing by the Banks if FHFA determines that it would be useful. Therefore, FHFA is adopting as its final rule the same rule proposed on December 16, 2019, without any change.

III. Summary of Final Rule

FHFA is adopting the proposed revisions to FHFA's rule without change as follows: The rule discontinues the Dodd-Frank Act stress testing of the Banks; prescribes the frequency of stress testing; and reduces the number of scenarios mandated for Enterprise Dodd-Frank Act stress testing. These revisions are described in more detail below.

A. Minimum Asset Threshold

As described above, section 401 of EGRRCPA amends section 165 of the Dodd-Frank Act by raising the minimum threshold for financial companies required to conduct stress tests from $10 billion to $250 billion. As there are no Banks with total consolidated assets of over $250 billion, the Banks will no longer be subject to the stress testing requirements of this rule. As the total consolidated assets for each Enterprise exceed the $250 billion threshold, the Enterprises remain subject to stress testing under this rule.

[1] Public Law 115–174, 132 Stat. 1296 (2018).

[2] Public Law 111–203, 124 Stat. 1376 (2010), codified at 12 U.S.C. 5365.

[3] 12 U.S.C. 5365(i)(2)(C).

[4] 12 CFR 1238.3(b).

[5] Public Law 115–174, 132 Stat. 1296–1368 (2018).

B. Frequency of Stress Testing

Section 401 of EGRRCPA also revised the requirement under section 165 of the Dodd-Frank Act for financial companies to conduct stress tests, changing the required frequency from ''annual'' to ''periodic.'' The term ''periodic'' is not defined in EGRRCPA. Because of the Enterprises' total consolidated asset amounts, their function in the mortgage market, size of their retained portfolios, and their share of the mortgage securitization market, FHFA will continue to require the Enterprises to conduct stress tests on an annual basis. This is consistent with FHFA's regulatory mission to ensure each of the regulated entities ''operates in a safe and sound manner.'' [6]

C. Removal of the ''Adverse'' Scenario

As discussed above, section 401 of EGRRCPA amends section 165(i) of the Dodd-Frank Act to no longer require the FRB to include an ''adverse'' stress-testing scenario, reducing the number of stress test scenarios from three to two. The ''baseline'' scenario is a set of conditions that affect the U.S. economy or the financial condition of the regulated entities, and that reflect the consensus views of the economic and financial outlook, and the ''severely adverse'' scenario is a more severe set of conditions and the most stringent of the former three scenarios. Although the ''adverse'' scenario has provided some additional value in limited circumstances, the ''baseline'' and ''severely adverse'' scenarios largely cover the full range of expected and stressful conditions. Therefore FHFA does not consider it necessary, for its supervisory purposes, to require the additional burden of analyzing an ''adverse'' scenario.

IV. Coordination With the FRB and the Federal Insurance Office

In accordance with section 165(i)(2)(C), FHFA has coordinated with both the FRB and the Federal Insurance Office (FIO). On November 1, 2019, the FRB published a final rule which revised ''the minimum threshold for state member banks to conduct stress tests from $10 billion to $250 billion,'' and revised ''the frequency with which state member banks with assets greater than $250 billion would be required to conduct stress tests,'' in addition to removing the adverse scenario from the list of required scenarios.[7] The FDIC adopted its final rule; [8] and the OCC its final rule.[9] Although FHFA's final rule is not identical to those of the FRB, the FDIC, and the OCC, it is consistent and comparable with them.

V. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

VI. Administrative Procedure Act

This final rule is effective immediately upon publication in the **Federal Register**. Section 553(d)(3) of the Administrative Procedure Act (APA) provides for a delayed effective date after publication of a rule, except ''as otherwise provided by the agency for good cause found and published with the rule.'' The changes to part 1238 primarily cover how FHFA will implement the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) stress testing requirements, as amended by section 401 of EGRRCPA. These amendments, applicable to large financial companies, became effective on November 24, 2019. Consistent with section 553(d)(3) and for the reasons discussed below, FHFA finds good cause exists to publish this final rule with an immediate effective date. Without this rule, the Enterprises and Federal Home Loan Banks will be required to conduct stress testing under the prior rule, incurring additional expense and burden which FHFA has determined is not necessary for purposes of safety and soundness. In addition, an immediate effective date permits FHFA to synchronize its supervisory efforts related to stress testing with the FRB and the FDIC. Accordingly, the FHFA finds good cause for the final rule to take effect immediately upon publication in the **Federal Register**.

VII. Regulatory Flexibility Act

The final rule applies only to the regulated entities, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (see 5 U.S.C. 601(6)). Therefore, in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the General Counsel of FHFA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

VIII. Congressional Review Act

In accordance with the Congressional Review Act (5 U.S.C. 801 *et seq.*), FHFA has determined that this final rule is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the OMB.

List of Subjects in 12 CFR Part 1238

Administrative practice and procedure, Capital, Federal Home Loan Banks, Government-sponsored enterprises, Regulated entities, Reporting and recordkeeping requirements, Stress test.

Authority and Issuance

For the reasons stated in the preamble, and under the authority of 12 U.S.C. 5365(i), FHFA amends part 1238 of Title 12 of the Code of Federal Regulations as follows:

PART 1238—STRESS TESTING OF REGULATED ENTITIES

■ 1. The authority citation for part 1238 continues to read as follows:

Authority: 12 U.S.C. 1426, 4513, 4526, 4612; 5365(i).

■ 2. Revise § 1238.1 to read as follows:

§ 1238.1 Authority and purpose.

(a) *Authority.* This part is issued by the Federal Housing Finance Agency (FHFA) under section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111–203, 124 Stat. 1376, 1423–32 (2010), 12 U.S.C. 5365(i), as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), Public Law 115–174, 132 Stat. 1296 (2018), 12 U.S.C. 5365(i); and the Safety and Soundness Act (12 U.S.C. 4513, 4526, 4612).

(b) *Purpose.* (1) This part implements section 165(i)(2) of the Dodd-Frank Act, as amended by section 401 of the EGRRCPA, which requires all large financial companies that have total consolidated assets of more than $250 billion, and are regulated by a primary federal financial regulatory agency, to conduct periodic stress tests.

(2) This part establishes requirements that apply to each Enterprise's performance of periodic stress tests. The purpose of the periodic stress test is to provide the Enterprises, FHFA, and the FRB with additional, forward-looking information that will help them to assess capital adequacy at the Enterprises under various scenarios; to review the Enterprises' stress test results; and to increase public

[6] 12 U.S.C. 4513(a)(1)(B)

[7] 84 FR 59032 (Nov. 1, 2019).

[8] 84 FR 56929 (Oct. 24, 2019).

[9] 84 FR 54472 (Oct. 10, 2019).

disclosure of the Enterprises' capital condition by requiring broad dissemination of the stress test scenarios and results.

■ 3. Revise § 1238.2 to read as follows:

§ 1238.2 Definitions.

For purposes of this part, the following definitions apply:

Planning horizon means the period of time over which the stress projections must extend. The planning horizon cannot be less than nine quarters.

Scenarios are sets of economic and financial conditions used in the Enterprises' stress tests, including baseline and severely adverse.

Stress test is a process to assess the potential impact on an Enterprise of economic and financial conditions (''scenarios'') on the consolidated earnings, losses, and capital of the Enterprise over a set planning horizon, taking into account the current condition of the Enterprise and the Enterprise's risks, exposures, strategies, and activities.

■ 4. Revise § 1238.3 to read as follows:

§ 1238.3 Annual stress test.

(a) *In general.* Each Enterprise:

(1) Shall complete an annual stress test of itself based on its data as of December 31 of the preceding calendar year;

(2) The stress test shall be conducted in accordance with this section and the methodologies and practices described in § 1238.4 and in a supplemental guidance or order.

(b) *Scenarios provided by FHFA.* In conducting its annual stress tests under this section, each Enterprise must use scenarios provided by FHFA, which shall be generally consistent with and comparable to those established by the FRB, that reflect a minimum of two sets of economic and financial conditions, including a baseline and severely adverse scenario. Not later than 30 days after the FRB publishes its scenarios, FHFA will issue to the Enterprises a description of the baseline and severely adverse scenarios that each Enterprise shall use to conduct its annual stress tests under this part.

■ 5. Revise § 1238.4 to read as follows:

§ 1238.4 Methodologies and practices.

(a) *Potential impact.* Except as noted in this subpart, in conducting a stress test under § 1238.3, each Enterprise shall calculate how each of the following is affected during each quarter of the stress test planning horizon, for each scenario:

(1) Potential losses, pre-provision net revenues, and future pro forma capital positions over the planning horizon; and

(2) Capital levels and capital ratios, including regulatory capital and net worth, and any other capital ratios specified by FHFA.

(b) *Planning horizon.* Each Enterprise must use a planning horizon of at least nine quarters over which the impact of specified scenarios would be assessed.

(c) *Additional analytical techniques.* If FHFA determines that the stress test methodologies and practices of an Enterprise are deficient, FHFA may determine that additional or alternative analytical techniques and exercises are appropriate for an Enterprise to use in identifying, measuring, and monitoring risks to the financial soundness of the Enterprise, and require an Enterprise to implement such techniques and exercises in order to fulfill the requirements of this part. In addition, FHFA will issue guidance annually to describe the baseline and severely adverse scenarios, and methodologies to be used in conducting the annual stress test.

(d) *Controls and oversight of the stress testing processes.* (1) The appropriate senior management of each Enterprise must ensure that the Enterprise establishes and maintains a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress testing processes used by the Enterprises are effective in meeting the requirements of this part. These policies and procedures must, at a minimum, describe the Enterprise's testing practices and methodologies, validation and use of stress test results, and processes for updating the Enterprise's stress testing practices consistent with relevant supervisory guidance;

(2) The board of directors, or a designated committee thereof, shall review and approve the policies and procedures established to comply with this part as frequently as economic conditions or the condition of the Enterprise warrants, but at least annually; and

(3) Senior management of the Enterprise and each member of the board of directors shall receive a summary of the stress test results.

■ 6. Revise § 1238.5 to read as follows:

§ 1238.5 Required report to FHFA and FRB of stress test results and related information.

(a) *Report required for stress tests.* On or before May 20 of each year, the Enterprises must report the results of the stress tests required under § 1238.3 to FHFA, and to the FRB, in accordance with paragraph (b) of this section;

(b) *Content of the report for annual stress test.* Each Enterprise must file a report in the manner and form established by FHFA.

(c) *Confidential treatment of information submitted.* Reports submitted to FHFA under this part are FHFA property and records (as defined in 12 CFR part 1202). The reports are and include non-public information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of, FHFA in connection with the performance of the agency's responsibilities regulating or supervising the Enterprises. Disclosure of any reports submitted to FHFA or the information contained in any such report is prohibited unless authorized by this part, legal obligation, or otherwise by the Director of FHFA.

■ 7. Revise § 1238.6 to read as follows:

§ 1238.6 Post-assessment actions by the Enterprises.

Each Enterprise shall take the results of the stress test conducted under § 1238.3 into account in making changes, as appropriate, to the Enterprise's capital structure (including the level and composition of capital); its exposures, concentrations, and risk positions; any plans for recovery and resolution; and to improve overall risk management. If an Enterprise is under FHFA conservatorship, any post-assessment actions shall require prior FHFA approval.

■ 8. Revise § 1238.7 to read as follows:

§ 1238.7 Publication of results by regulated entities.

(a) *Public disclosure of results required for stress tests of the Enterprises.* The Enterprises must disclose publicly a summary of the stress test results for the severely adverse scenario not earlier than August 1 and not later than August 15 of each year. The summary may be published on the Enterprise's website or in any other form that is reasonably accessible to the public.

(b) *Information to be disclosed in the summary.* The information disclosed by each Enterprise shall, at minimum, include—

(1) A description of the types of risks being included in the stress test;

(2) A high-level description of the scenario provided by FHFA, including key variables (such as GDP, unemployment rate, housing prices, and foreclosure rate, etc.);

(3) A general description of the methodologies employed to estimate losses, pre-provision net revenue, and changes in capital positions over the planning horizon;

(4) A general description of the use of the required stress test as one element in an Enterprise's overall capital planning and capital assessment. If an Enterprise is under conservatorship, this description shall be coordinated with FHFA;

(5) Aggregate losses, pre-provision net revenue, net income, net worth, pro forma capital levels and capital ratios (including regulatory and any other capital ratios specified by FHFA) over the planning horizon, under the scenario; and

(6) Such other data fields, in such form (*e.g.,* aggregated), as the Director may require.

Dated: March 11, 2020.

Mark A. Calabria,

Director, Federal Housing Finance Agency.

[FR Doc. 2020–05476 Filed 3–23–20; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1125; Product Identifier 2017–SW–078–AD; Amendment 39–19880; AD 2020–06–11]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for MD Helicopters Inc. (MDHI) Model 600N helicopters. This AD requires establishing a life limit for the main rotor (M/R) blade upper control collective/longitudinal link assembly (link assembly). This AD was prompted by the discovery that the life limit was omitted from the maintenance manual. The actions of this AD are intended to prevent an unsafe condition on these products.

DATES: This AD is effective April 28, 2020.

ADDRESSES: For service information related to this final rule, contact MD Helicopters, Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, AZ 85215–9734; telephone 1–800–388–3378; fax 480–346–6813; or at *https://www.mdhelicopters.com.* You may review this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1125; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Payman Soltani, Aerospace Engineer, Airframe Section, Los Angeles ACO Branch, Compliance and Airworthiness Division, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone 562–627–5313; email *payman.soltani@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to MDHI Model 600N helicopters with a yaw stability augmentation system and with an M/R link assembly part number (P/N) 600N7617–1 installed. The NPRM published in the **Federal Register** on September 10, 2018 (83 FR 45580). The NPRM was prompted by a report from MDHI that during a review of the Airworthiness Limitations section of the applicable maintenance manual, MDHI discovered that it did not include a life limit for link assemblies installed on MDHI Model 600N helicopters with a yaw stability augmentation system. Link assembly P/N 600N7617–1, which is made of aluminum, is a life-limited part with a life limit of 15,000 hours time-in-service (TIS). MDHI subsequently revised the Airworthiness Limitations section of the maintenance manual to include the life limit. The NPRM proposed to require creating a component history card or equivalent record for each affected link assembly, if one does not exist, and recording a life limit of 15,000 hours TIS. This NPRM also proposed to require determining the hours TIS of the link assembly and removing the link assembly from service according to the new life limit. The proposed requirements were intended to prevent a link assembly remaining in service beyond its life limit, which could result in fatigue failure, loss of M/R blade pitch control, and subsequent loss of helicopter control.

Comments

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

Request

MDHI expressed concern that the requirements proposed by the NPRM do not definitively eliminate the risk of a life limit being exceeded.

MDHI stated that link assembly P/N 600N7617–1 is not serialized and is aware that link assemblies have been installed on aircraft with multiple serial numbers, possibly indicating that link assemblies P/N 600N7617–1 may not have a reliable TIS record. MDHI also stated if the TIS is unknown, arbitrarily setting the TIS to the aircraft hours may not adequately reflect the actual TIS of link assembly P/N 600N7617–1.

FAA Response

The FAA acknowledges link assembly P/N 600N7617–1 is not serialized and the possibility of cross-installation on multiple aircraft. However, the FAA has determined that using the hours TIS of the helicopter mitigates the risk to an acceptable level because there is a small number of link assemblies P/N 600N7617–1 in-service, the usage rate for MDHI Model 600N helicopters is similar throughout the fleet, and the 15,000 hours TIS life limit includes a built-in life reduction for different variabilities.

Request

MDHI requested the FAA mandate the replacement of link assembly P/N 600N7617–1 with link assembly P/N 600N7617–5. MDHI explained that installation of link assembly P/N 600N7617–5 is consistent with production and field modification installations of the yaw stability augmentation system (YSAS), which requires installation of link assembly P/N 600N7617–5, and that link assembly P/N 600N7617–5 is not subject to life-limiting fatigue, therefore eliminating this potential safety risk.

FAA Response

The FAA agrees that replacing link assembly P/N 600N7617–1 with link assembly P/N 600N7617–5 is beneficial but disagrees that the replacement is required for airworthiness. Link

assembly P/N 600N7617–5 is an upgraded part made of steel and is not subject to a life limit. The FAA disagrees with requiring replacement of link assembly P/N 600N7617–1 with link assembly P/N 600N7617–5 because link assembly P/N 600N7617–1 is airworthy within the life limit of 15,000 TIS. The FAA provided additional information about this response, which can be found in the AD docket. The FAA has added an optional terminating action to the requirements of this AD that specifies removing link assembly P/N 600N7617–1 from service and installing link assembly P/N 600N7617–5 instead.

FAA's Determination

The FAA has reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed except for the changes described previously. These changes are consistent with the intent that was proposed in the NPRM to address the unsafe condition and do not add any additional burden upon the public to that already proposed in the NPRM. The FAA has also determined that these changes will neither increase the economic burden on any operator nor increase the scope of this final rule.

Related Service Information

The FAA reviewed MDHI CSP–HMI–2 MDHI Maintenance Manual, Chapter 04, Airworthiness Limitations, Revision 47, dated September 30, 2016. This service information specifies a 15,000 hour TIS life limit for link assembly P/N 600N7617–1 for helicopters with a yaw stability augmentation system.

Costs of Compliance

The FAA estimates that this AD affects 26 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Determining the hours TIS of each link assembly and updating the aircraft records takes about 30 minutes, for a cost of $43 per helicopter and $1,118 for the U.S. fleet.

Replacing a link assembly, if needed, takes about 2 work-hours, and parts cost about $984 for an estimated replacement cost of $1,154 per link per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–06–11 MD Helicopters Inc.: Amendment 39–19880; Docket No. FAA–2017–1125; Product Identifier 2017–SW–078–AD.

(a) Applicability

This AD applies to MD Helicopters Inc. (MDHI) Model 600N helicopters, certified in any category, with a yaw stability augmentation system and with a main rotor (M/R) blade upper control collective/longitudinal link assembly (link assembly) part number (P/N) 600N7617–1 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a link assembly remaining in service beyond its fatigue life. This condition could result in failure of the link assembly, failure of M/R blade pitch control, and subsequent loss of helicopter control.

(c) Effective Date

This AD becomes effective April 28, 2020.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Within 100 hours time-in-service (TIS):

(1) Determine the total hours TIS of each link assembly P/N 600N7617–1. If the hours TIS are unknown, use the hours TIS of the helicopter. Remove from service any link assembly that has 15,000 or more hours TIS. Thereafter, remove from service any link assembly before accumulating 15,000 hours TIS.

(2) Create a component history card or equivalent record for each link assembly P/N 600N7617–1 and record a life limit of 15,000 hours TIS.

(3) As an optional terminating action to the requirements of paragraphs (e)(1) and (2) of this AD, you may remove from service link assembly P/N 600N7617–1 and install link assembly P/N 600N7617–5.

(f) Special Flight Permits

Special flight permits are prohibited.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Payman Soltani, Aerospace Engineer, Airframe Section, Los Angeles ACO Branch, Compliance and Airworthiness Division, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone 562–627–5313; email *9-ANM-LAACO-AMOC-REQUESTS@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

For service information related to this AD, contact MD Helicopters, Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, AZ 85215–9734; telephone 1–800–388–3378; fax 480–346–6813; or at *https://www.mdhelicopters.com.* You may review a copy of this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101

Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6710, Main Rotor Control.

Issued on March 17, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05996 Filed 3–23–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0729; Airspace Docket No. 19–AGL–12]

RIN 2120–AA66

Amendment of Air Traffic Service (ATS) Routes V–82, V–217, and T–383 in the Vicinity of Baudette, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, delay of effective date.

SUMMARY: This action changes the effective date of a final rule published in the **Federal Register** on February 21, 2020, amending VHF Omnidirectional Range (VOR) Federal airways V–82 and V–217, and area navigation (RNAV) route T–383 in the vicinity of Baudette, MN. The ATS route amendments were due to the planned decommissioning of the Baudette VOR. The FAA is delaying the effective date to coincide with the expected completion of the Minnesota Department of Transportation (DOT) purchase and flight check of a new Distance Measuring Equipment (DME) facility to support the Instrument Landing System (ILS) or Localizer (LOC) Approach to Runway (RWY) 31 instrument approach procedure, which is affected by the loss of the Baudette VOR, at Warroad International Memorial Airport, MN.

DATES: The effective date of the final rule published on February 21, 2020 (85 FR 10054) is delayed until September 10, 2020. The Director of the Federal Register approved this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA published a final rule in the **Federal Register** for Docket No. FAA–2019–0729 (85 FR 10054, February 21, 2020), amending VOR Federal airways V–82 and V–217, and RNAV route T–383 in the vicinity of Baudette, MN. The effective date for that final rule is May 21, 2020. However, the decommissioning of the Baudette, MN, VOR has a direct impact on the ILS or LOC RWY 31 instrument approach procedure at Warroad International Memorial Airport, MN, because the DME required for this procedure is out of service.

The Minnesota DOT is currently in the process of purchasing new DME equipment to install at the Warroad International Memorial Airport, MN. Upon purchase and installation of the new equipment, Minnesota DOT has committed to have the required Flight Inspection completed and the DME certified for use by September 10, 2020; therefore, the rule amending V–82, V–217, and T–383 is delayed to coincide with that date.

VOR Federal airways are published in paragraph 6010(a) and RNAV T-routes are published in paragraph 6011 of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways and RNAV T-route listed in this document will be subsequently published in the Order.

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

Good Cause for No Notice and Comment

Section 553(b)(3)(B) of Title 5, United States Code, (the Administrative Procedure Act) authorizes agencies to dispense with notice and comment procedures for rules when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking. The FAA finds that prior notice and public comment to this final rule is unnecessary due to the brief length of the extension of the effective date and the fact that there is no substantive change to the rule.''

Delay of Effective Date

Accordingly, pursuant to the authority delegated to me, the effective date of the final rule, Airspace Docket 19–AGL–12, as published in the **Federal Register** on February 21, 2020 (85 FR 10054), FR Doc. 2020–03282, is hereby delayed until September 10, 2020.

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

Issued in Washington, DC, on March 11, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–05859 Filed 3–23–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0687; Airspace Docket No. 19–ASO–17]

RIN 2120–AA66

Amendment of Area Navigation Routes, Florida Metroplex Project; Southeastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends 11 high altitude area navigation (RNAV) routes (Q-routes) in support of the Florida Metroplex Project. The amendments provide more efficient, streamlined route options for users, and improve the efficiency of the National Airspace System (NAS).

DATES: Effective date 0901 UTC, May 21, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA, Order 7400.11 and publication of conforming amendments.

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

Order 7400.11D at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2019–0687 in the **Federal Register** (84 FR 51068; September 27, 2019) amending 12 existing Q-routes, in the southeastern United States in support of the Florida Metroplex Project. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Differences From the NPRM

The preamble text in the NPRM proposed to amend the descriptions of numerous existing Q routes. However, the regulatory text in the NPRM incorrectly listed seven of the routes as ''new'' instead of ''amended'' routes. This rule corrects the regulatory text by replacing ''new'' with ''amended'' in the title lines of the descriptions for the affected Q routes. This change is editorial only, and does not alter the alignment of the affected routes.

Additionally, the NPRM proposed to add the OVENP, FL, and SUSYQ, GA waypoints (WP) to the description of Q–87. Subsequently, the FAA determined that the two WPs are not required in the part 71 description of Q–87 because they do not signify a course change for the route. As a result, there is no need to amend the part 71 route description to add the WPs to Q–87. Consequently, Q–87 is removed from this final rule.

Area navigation routes are published in paragraph 2006, of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The area navigation routes listed in this document will be subsequently published in the Order.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by amending 11 existing Q-routes, in the southeastern United States in support of the Florida Metroplex Project. The amendments add additional waypoints (WP) to various Q-routes. These added WPs give air traffic controllers more predictability, and provide users with more options when filing flight plans. Amendments are made to the descriptions of the following routes: Q–65, Q–77, Q–79, Q–81, Q–85, Q–93, Q–99, Q–109, Q–110, Q–116, and Q–118.

The Q-route amendments are as follows (full route descriptions are listed in ''The Amendment'' section, below):

Q–65: Q–65 extends between the KPASA, FL, WP, and the Rosewood, OH, VORTAC. The FAA is relocating the southern end point of the route by approximately 50 nautical miles (NM) to the southwest from the KPASA, FL, WP, to the MGNTY, FL, WP (located near the St Petersburg, FL, (PIE) VORTAC. The KPASA WP is removed from the route. The purpose of this amendment is to realign the southern end of Q–65 to a point over Florida's west coast thereby enhancing separation from other air traffic using central Florida routes. The rest of Q–65 (between DOFFY, FL, and Rosewood, OH), remains as currently charted.

Q–77: Q–77 extends between the OCTAL, FL, WP, and the WIGVO, GA, WP. This action updates the latitude/longitude coordinates for the OCTAL, FL, the STYMY, FL, and the WAKKO, FL, WPs. The coordinates for the OCTAL, FL, WP are changed from ''Lat. 26°09′01.91″ N, long. 080°06′37.51″ W,'' to ''Lat. 26°09′01.92″ N, long. 080°12′11.60″ W'' This moves OCTAL approximately 5 NM to the west of its current position. The STYMY, FL, WP, coordinates are changed from ''Lat. 28°01′09.65″ N, long. 081°08′41.27″ W,'' to ''Lat. 28°02′12.25″ N, long. 081°09′05.47″ W.'' This moves STYMY approximately 1 NM to the north of its current position. The WAKKO, FL, WP coordinates are changed from ''Lat. 28°18′00.69″ N, long. 081°24′53.49″ W,'' to ''Lat. 28°20′31.57″ N, long. 081°18′32.14″ W.'' This change moves WAKKO approximately 6 NM to the east of its current position. Updating the coordinates for these WPs provides ''tie-ins'' for new procedures to Q–77. The FAA is also removing the WASUL, FL, WP (located between the WAKKO, FL, and the MJAMS, FL, WPs) from Q–77. Removal of the WASUL WP, along with the updated positions of the STYMY and WAKKO WPs, allow for straightening of the route segments between the STYMY and MJAMS WPs.

Q–79: Q–79 extends between the MCLAW, FL, WP, and the Atlanta, GA, (ATL) VORTAC. This action adds two new points: the EVANZ, FL, and the IISLY, GA, WPs, between the existing DOFFY, FL, and the YUESS, GA, WPs.

Q–81: Q–81 extends between the TUNSL, FL, WP, and the HONID, GA, WP. The MGNTY, FL, WP is added between the existing FARLU, FL, and the ENDEW, FL, WPs. The SNAPY, FL, the BULZI, FL, and the IPOKE, GA, WPs are be added between the existing NICKI, FL, and the HONID, GA, WPs.

Q–85: Q–85 extends between the LPERD, FL, WP, and the SMPRR, NC, WP. This change adds the BEEGE, GA, WP between the existing LPERD, FL, and the GIPPL, GA, WPs.

Q–93: Q–93 extends between the MCLAW, FL, WP, and the QUIWE, SC, WP. The SUSYQ, GA, WP is added between the existing GIPPL, GA, and the ISUZO, GA, WPs. The GURGE, SC, WP is added between the ISUZO, GA, and the FISHO, SC, WPs.

Q–99: Q–99 extends between the DOFFY, FL, WP, and the POLYY, NC, WP. This action extends the southern end of the route from the current DOFFY, FL, WP approximately 75 NM southeast to the KPASA, FL, WP. Adding the KPASA WP expands the availability of RNAV routing in the area. The rest of Q–99 (between DOFFY, FL, and POLYY, NC), remains as currently charted.

Q–109: Q–109 extends between the DOFFY, FL, WP, and the LAANA, NC,

WP. This action relocates the southern end of the route from the current DOFFY, FL, WP, to the KNOST, OG, WP (which is located over the Gulf of Mexico, approximately 78 NM southwest of the DOFFY, WP). The DOFFY, WP is removed from Q–109. This change provides connection to the U.S. National Airspace System for users from Mexico and Central America. In addition, the DEANER, FL, the BRUTS, FL, and the EVANZ, FL, WPs are added to the route between the KNOST, OG, WP, and the CAMJO, FL, WP. After CAMJO, Q–109 extends to the LAANA, NC, WP, as currently charted.

Q–110: Q–110 extends between the BLANS, IL, WP, and the OCTAL, FL, WP. The coordinates for the OCTAL, FL, WP are updated as described above. In addition, an editorial change is made to the order of the WPs listed in the Q–110 description and published in FAA Order 7400.11D. Currently, the route description lists the points from ''BLANS, IL, to OCTAL, FL.'' This change simply reverses the order of the points listed in the Q–110 description in Order 7400.11D to read ''OCTAL, FL, to BLANS, IL.'' This change matches airspace database documentation. Except for the change to the OCTAL, FL, WP coordinates, the amendment the order of points does not affect the alignment of Q–110.

Q–116: Q–116 extends between the Vulcan, AL, (VUZ) VORTAC, and the OCTAL, FL, WP. Q–116 is amended by updating the coordinates for the OCTAL, FL, WP, as described above. In addition, the DEANR, FL, WP is added between the existing MICES, FL, and the PATOY, FL, WPs.

Q–118: Q–118 extends between the Marion, IN, (MZZ) VOR/DME, and the PEAKY, FL, WP, FL. The BRIES, FL, WP is removed from the route description as it is no longer required for air traffic control purposes.

Note: In the regulatory text, below, some route descriptions include waypoints located over international waters. In those route descriptions, in place of a two-letter state abbreviation, either ''OA,'' meaning ''Offshore Atlantic,'' or ''OG,'' meaning ''Offshore Gulf of Mexico,'' is used.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying the following 11 high altitude RNAV routes: Q–65, Q–77, Q–79, Q–81, Q–85, Q–93, Q–99, Q–109, Q–110, Q–116, and Q–118, qualifies for a categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F—Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–65 MGNTY, FL to Rosewood, OH (ROD) [Amended]

MGNTY, FL	WP	(Lat. 28°01′32.99″ N, long. 082°53′19.71″ W)
DOFFY, FL	WP	(Lat. 29°15′22.73″ N, long. 082°31′38.10″ W)
FETAL, FL	WP	(Lat. 30°11′03.69″ N, long. 082°30′24.76″ W)
ENEME, GA	WP	(Lat. 30°42′12.09″ N, long. 082°26′09.31″ W)
JEFOI, GA	WP	(Lat. 31°35′37.02″ N, long. 082°31′18.38″ W)
TRASY, GA	WP	(Lat. 31°55′25.92″ N, long. 082°35′50.51″ W)
CESKI, GA	WP	(Lat. 32°16′21.27″ N, long. 082°40′38.96″ W)
DAREE, GA	WP	(Lat. 34°37′35.72″ N, long. 083°51′35.03″ W)
LORNN, TN	WP	(Lat. 35°21′16.33″ N, long. 084°14′19.35″ W)
SOGEE, TN	WP	(Lat. 36°31′50.64″ N, long. 084°11′35.39″ W)
ENGRA, KY	WP	(Lat. 37°29′02.34″ N, long. 084°15′02.15″ W)
OCASE, KY	WP	(Lat. 38°23′59.05″ N, long. 084°11′05.32″ W)
Rosewood, OH (ROD)	VORTAC	(Lat. 40°17′16.08″ N, long. 084°02′35.15″ W)

Q–77 OCTAL, FL to WIGVO, GA [Amended]

OCTAL, FL	WP	(Lat. 26°09′01.92″ N, long. 080°12′11.60″ W)
MATLK, FL	WP	(Lat. 27°49′36.54″ N, long. 080°57′04.27″ W)
STYMY, FL	WP	(Lat. 28°02′12.25″ N, long. 081°09′05.47″ W)
WAKKO, FL	WP	(Lat. 28°20′31.57″ N, long. 081°18′32.14″ W)
MJAMS, FL	WP	(Lat. 28°55′37.59″ N, long. 081°36′33.30″ W)
ETORE, FL	WP	(Lat. 29°41′49.00″ N, long. 081°40′47.75″ W)
SHRKS, FL	WP	(Lat. 30°37′23.23″ N, long. 081°45′59.13″ W)

TEUFL, GA	WP	(Lat. 31°52′00.46″ N, long. 082°01′04.56″ W)
WIGVO, GA	WP	(Lat. 32°27′24.00″ N, long. 082°02′18.00″ W)

Q–79 MCLAW, FL to Atlanta, GA (ATL) [Amended]

MCLAW, FL	WP	(Lat. 24°33′49.00″ N, long. 081°01′00.00″ W)
VAULT, FL	WP	(Lat. 24°45′54.75″ N, long. 081°00′33.72″ W)
FEMID, FL	WP	(Lat. 26°06′29.59″ N, long. 081°27′23.07″ W)
WULFF, FL	WP	(Lat. 27°04′03.14″ N, long. 081°58′44.99″ W)
MOLIE, FL	WP	(Lat. 28°01′55.53″ N, long. 082°18′25.55″ W)
DOFFY, FL	WP	(Lat. 29°15′22.73″ N, long. 082°31′38.10″ W)
EVANZ, FL	WP	(Lat. 29°54′12.11″ N, long. 082°52′03.81″ W)
IISLY, GA	WP	(Lat. 30°42′37.70″ N, long. 083°17′57.72″ W)
YUESS, GA	WP	(Lat. 31°41′00.00″ N, long. 083°33′31.20″ W)
Atlanta, GA (ATL)	VORTAC	(Lat. 33°37′44.68″ N, long. 084°26′06.23″ W)

Q–81 TUNSL, FL to HONID, GA [Amended]

TUNSL, FL	WP	(Lat. 24°54′02.43″ N, long. 081°31′02.80″ W)
KARTR, FL	FIX	(Lat. 25°29′45.76″ N, long. 081°30′46.24″ W)
FIPES, OG	WP	(Lat. 25°41′30.15″ N, long. 081°37′13.79″ W)
THMPR, FL	WP	(Lat. 26°46′00.21″ N, long. 082°20′23.99″ W)
LEEHI, FL	WP	(Lat. 27°07′21.91″ N, long. 082°34′54.57″ W)
FARLU, FL	WP	(Lat. 27°45′32.56″ N, long. 082°50′43.77″ W)
MGNTY, FL	WP	(Lat. 28°01′32.99″ N, long. 082°53′19.71″ W)
ENDEW, FL	WP	(Lat. 28°18′01.73″ N, long. 082°55′56.70″ W)
BITNY, OG	WP	(Lat. 28°46′11.98″ N, long. 083°07′53.01″ W)
NICKI, FL	WP	(Lat. 29°15′20.19″ N, long. 083°20′31.80″ W)
SNAPY, FL	WP	(Lat. 29°48′51.17″ N, long. 083°42′23.61″ W)
BULZI, FL	WP	(Lat. 30°22′24.93″ N, long. 084°04′34.47″ W)
IPOKE, GA	WP	(Lat. 30°51′48.89″ N, long. 084°11′52.43″ W)
HONID, GA	WP	(Lat. 31°38′50.31″ N, long. 084°23′42.60″ W)

Q–85 LPERD, FL to SMPRR, NC [Amended]

LPERD, FL	WP	(Lat. 30°36′09.18″ N, long. 081°16′52.16″ W)
BEEGE, GA	WP	(Lat. 31°10′59.98″ N, long. 081°16′57.50″ W)
GIPPL, GA	WP	(Lat. 31°22′53.96″ N, long. 081°09′53.70″ W)
ROYCO, GA	WP	(Lat. 31°35′10.38″ N, long. 081°02′22.45″ W)
IGARY, SC	WP	(Lat. 32°34′41.37″ N, long. 080°22′36.01″ W)
PELIE, SC	WP	(Lat. 33°21′23.88″ N, long. 079°44′43.43″ W)
BUMMA, SC	WP	(Lat. 34°01′58.09″ N, long. 079°11′07.50″ W)
KAATT, NC	WP	(Lat. 34°15′35.43″ N, long. 078°59′42.38″ W)
SMPRR, NC	WP	(Lat. 34°26′28.32″ N, long. 078°50′31.80″ W)

Q–93 MCLAW, FL to QUIWE, SC [Amended]

MCLAW, FL	WP	(Lat. 24°33′49.00″ N, long. 081°01′00.00″ W)
VAULT, FL	WP	(Lat. 24°45′54.75″ N, long. 081°00′33.72″ W)
LINEY, FL	WP	(Lat. 25°16′44.02″ N, long. 080°53′15.43″ W)
FOBIN, FL	WP	(Lat. 25°47′02.00″ N, long. 080°46′00.89″ W)
EBAYY, FL	WP	(Lat. 27°43′40.20″ N, long. 080°30′03.59″ W)
MALET, FL	FIX	(Lat. 28°41′29.90″ N, long. 080°52′04.30″ W)
DEBRL, FL	WP	(Lat. 29°17′48.73″ N, long. 081°08′02.88″ W)
KENLL, FL	WP	(Lat. 29°34′28.35″ N, long. 081°07′25.26″ W)
PRMUS, FL	WP	(Lat. 29°49′05.67″ N, long. 081°07′20.74″ W)
WOPNR, OA	WP	(Lat. 30°37′36.03″ N, long. 081°04′26.44″ W)
GIPPL, GA	WP	(Lat. 31°22′53.96″ N, long. 081°09′53.70″ W)
SUSYQ, GA	WP	(Lat. 31°40′54.28″ N, long. 081°12′07.99″ W)
ISUZO, GA	WP	(Lat. 31°57′47.85″ N, long. 081°14′14.79″ W)
GURGE, SC	WP	(Lat. 32°29′02.26″ N, long. 081°12′41.48″ W)
FISHO, SC	WP	(Lat. 33°16′46.25″ N, long. 081°24′43.52″ W)
QUIWE, SC	WP	(Lat. 33°57′05.56″ N, long. 081°30′07.93″ W)

Q99 KPASA, FL to POLYY, NC [Amended]

KPASA, FL	WP	(Lat. 28°10′34.00″ N, long. 081°54′27.00″ W)
DOFFY, FL	WP	(Lat. 29°15′22.73″ N, long. 082°31′38.10″ W)
CAMJO, FL	WP	(Lat. 30°30′32.00″ N, long. 082°41′11.00″ W)
HEPAR, GA	WP	(Lat. 31°05′13.00″ N, long. 082°33′46.00″ W)
TEEEM, GA	WP	(Lat. 32°08′41.20″ N, long. 081°54′50.57″ W)
BLAAN, SC	WP	(Lat. 33°51′09.38″ N, long. 080°53′32.78″ W)
BWAGS, SC	WP	(Lat. 34°00′03.77″ N, long. 080°45′12.26″ W)
EFFAY, SC	WP	(Lat. 34°15′30.67″ N, long. 080°30′37.94″ W)
WNGUD, SC	WP	(Lat. 34°41′53.16″ N, long. 080°06′12.12″ W)
POLYY, NC	WP	(Lat. 34°48′37.54″ N, long. 079°59′55.81″ W)

Q–109 KNOST, OG to LAANA, NC [Amended]

KNOST, OG	WP	(Lat. 28°00′02.55″ N, long. 083°25′23.99″ W)
DEANR, FL	WP	(Lat. 29°15′30.40″ N, long. 083°03′30.24″ W)
BRUTS, FL	WP	(Lat. 29°30′58.00″ N, long. 082°58′57.00″ W)
EVANZ, FL	WP	(Lat. 29°54′12.11″ N, long. 082°52′03.81″ W)
CAMJO, FL	WP	(Lat. 30°30′32.00″ N, long. 082°41′11.00″ W)
HEPAR, GA	WP	(Lat. 31°05′13.00″ N, long. 082°33′46.00″ W)
TEEEM, GA	WP	(Lat. 32°08′41.20″ N, long. 081°54′50.57″ W)
RIELE, SC	WP	(Lat. 32°37′27.14″ N, long. 081°23′34.97″ W)
PANDY, SC	WP	(Lat. 33°28′29.39″ N, long. 080°26′55.21″ W)
RAYVO, SC	WP	(Lat. 33°38′44.12″ N, long. 080°04′00.84″ W)
SESUE, GA	WP	(Lat. 33°52′02.58″ N, long. 079°33′51.88″ W)
BUMMA, SC	WP	(Lat. 34°01′58.09″ N, long. 079°11′07.50″ W)
YURCK, NC	WP	(Lat. 34°11′14.80″ N, long. 078°52′40.62″ W)
LAANA, NC	WP	(Lat. 34°19′41.35″ N, long. 078°35′37.16″ W)

Q–110 OCTAL, FL to BLANS, IL [Amended]		
OCTAL, FL	WP	(Lat. 26°09′01.92″ N, long. 080°12′11.60″ W)
JAYMC, FL	WP	(Lat. 26°58′51.00″ N, long. 081°22′08.00″ W)
SHEEK, FL	WP	(Lat. 27°35′15.40″ N, long. 081°46′27.82″ W)
SMELZ, FL	WP	(Lat. 28°04′59.00″ N, long. 082°06′34.00″ W)
AMORY, FL	WP	(Lat. 29°13′17.02″ N, long. 082°55′42.90″ W)
JOKKY, FL	WP	(Lat. 30°11′31.47″ N, long. 083°38′41.86″ W)
DAWWN, GA	WP	(Lat. 31°28′49.96″ N, long. 084°36′46.69″ W)
JYROD, AL	WP	(Lat. 33°10′53.29″ N, long. 085°51′54.85″ W)
BFOLO, AL	WP	(Lat. 34°03′33.98″ N, long. 086°31′30.49″ W)
SKIDO, AL	WP	(Lat. 34°31′49.10″ N, long. 086°53′11.16″ W)
BETIE, TN	WP	(Lat. 36°07′29.88″ N, long. 087°54′01.48″ W)
BLANS, IL	WP	(Lat. 37°28′09.27″ N, long. 088°44′00.68″ W)
Q–116 Vulcan, AL (VUZ) to OCTAL, FL [Amended]		
Vulcan, AL (VUZ)	VORTAC	(Lat. 33°40′12.48″ N, long. 086°53′59.41″ W)
DEEDA, GA	WP	(Lat. 31°34′13.55″ N, long. 085°00′31.10″ W)
JAWJA, FL	WP	(Lat. 30°10′25.55″ N, long. 083°48′58.94″ W)
MICES, FL	WP	(Lat. 29°51′37.65″ N, long. 083°33′18.30″ W)
DEANR, FL	WP	(Lat. 29°15′30.40″ N, long. 083°03′30.24″ W)
PATOY, FL	WP	(Lat. 29°03′52.49″ N, long. 082°54′00.09″ W)
SMELZ, FL	WP	(Lat. 28°04′59.00″ N, long. 082°06′34.00″ W)
SHEEK, FL	WP	(Lat. 27°35′15.40″ N, long. 081°46′27.82″ W)
JAYMC, FL	WP	(Lat. 26°58′51.00″ N, long. 081°22′08.00″ W)
OCTAL, FL	WP	(Lat. 26°09′01.92″ N, long. 080°12′11.60″ W)
Q–118 Marion, IN (MZZ) to PEAKY, FL [Amended]		
Marion, IN (MZZ)	VOR/DME	(Lat. 40°29′35.99″ N, long. 085°40′45.30″ W)
HEVAN, IN	WP	(Lat. 39°21′08.86″ N, long. 085°07′46.70″ W)
ROYYZ, IN	WP	(Lat. 39°56′28.93″ N, long. 084°56′10.19″ W)
VOSTK, KY	WP	(Lat. 38°28′15.86″ N, long. 084°43′03.58″ W)
HELUB, KY	WP	(Lat. 37°42′54.84″ N, long. 084°44′28.31″ W)
JEDER, KY	WP	(Lat. 37°19′30.54″ N, long. 084°45′14.17″ W)
GLAZR, TN	WP	(Lat. 36°25′20.78″ N, long. 084°46′49.29″ W)
KAILL, GA	WP	(Lat. 34°01′47.21″ N, long. 084°31′24.18″ W)
Atlanta, GA (ATL)	VORTAC	(Lat. 33°37′44.68″ N, long. 084°26′06.23″ W)
JOHNN, GA	FIX	(Lat. 31°31′22.94″ N, long. 083°57′26.55″ W)
JAMIZ, FL	WP	(Lat. 30°13′46.91″ N, long. 083°19′27.78″ W)
BRUTS, FL	WP	(Lat. 29°30′58.00″ N, long. 082°58′57.00″ W)
JINOS, FL	WP	(Lat. 28°28′46.00″ N, long. 082°08′52.00″ W)
KPASA, FL	WP	(Lat. 28°10′34.00″ N, long. 081°54′27.00″ W)
SHEEK, FL	WP	(Lat. 27°35′15.40″ N, long. 081°46′27.82″ W)
CHRRI, FL	FIX	(Lat. 27°03′00.70″ N, long. 081°39′14.81″ W)
FEMID, FL	WP	(Lat. 26°06′29.59″ N, long. 081°27′23.07″ W)
PEAKY, FL	WP	(Lat. 24°35′23.72″ N, long. 081°08′53.91″ W)

* * * * *

Issued in Washington, DC, on March 16, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–05987 Filed 3–23–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0921; Airspace Docket No. 19–ANE–7]

RIN 2120–AA66

Amendment of Class D and Class E Airspace, Nashua, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace, Class E airspace designated as an extension to a Class D surface area, and Class E airspace extending upward from 700 feet above the surface at Boire Field, Nashua, NH, to accommodate airspace reconfiguration due to the decommissioning of CHERN non-directional beacon, and cancellation of the associated approaches. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport. This action also updates the geographic coordinates of this airport, as well as Manchester VOR/DME. In addition, this action recognizes the name change of Pepperell Airport (formerly Sports Center Airport). This action also replaces the outdated term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D and E airspace of Boire Field. Also, the FAA inadvertently failed to address the purpose of the radius of Class E airspace extending upward from 700 feet above the surface increasing from 7.0 miles to 7.9 miles. In addition, the Manchester VOR/DME was incorrectly identified as VORTAC. This action corrects these errors.

DATES: Effective 0901 UTC, May 21, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D and E airspace at Boire Field, Nashua, NH, to support IFR operations in the area.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 68385, December 16, 2019) for Docket No. FAA–2019–0921 to amend Class D and E airspace at Boire Field, Nashua, NH, by eliminating the northwest extension of the airport, due to the cancellation of the NDB approach, and by updating the geographic coordinates of this airport, as well as Manchester VOR/DME. In addition, the FAA recognizes the name change of Pepperell Airport (formerly Sports Center Airport), and replaces the outdated term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D and E airspace of Boire Field.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and Class E airspace designations are published in Paragraphs 5000, 6004, and 6005, respectively of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 amends Class D, Class E airspace designated as an extension to a Class D surface area, and Class E airspace extending upward from 700 feet or more above the surface at Boire Field, Nashua, NH, by eliminating the northwest extension of the airport, due to the cancellation of the NDB approach. The FAA also updates the geographic coordinates of Boire Field and Manchester VOR/DME to coincide with the FAA's aeronautical database. In addition, this action recognizes the name change of Pepperell Airport (formerly Sports Center Airport). Also, an editorial change is made replacing the outdated term Airport/Facility Directory with the term Chart Supplement in the associated Class D and E airspace legal descriptions for Boire Field. Subsequent to publication, the FAA found the Manchester VOR/DME was incorrectly identified as Manchester VORTAC. This action corrects that error. In addition, a review of the airspace resulting from the decommissioning of the CHERN NDB indicated that the radius of the Class E airspace extending upward from 700 feet or more above the surface needed to be increased from 7.0 miles to 7.9 miles. These changes are necessary for continued safety and management of IFR operations at this airport.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ANE NH D Nashua, NH [Amended]

Boire Field, NH
(Lat. 42°46′57″ N, long. 71°30′51″ W)
Pepperell Airport, MA
(Lat. 42°41′46″ N, long. 71°33′00″ W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5-mile radius of Boire Field; excluding that airspace within a 2-mile radius of Pepperell Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Designated as an Extension to Class D or E Surface Area.

* * * * *

ANE NH E4 Nashua, NH [Amended]

Boire Field, NH
(Lat. 42°46′57″ N, long. 71°30′51″ W)
Manchester VOR/DME
(Lat. 42°52′07″ N, long. 71°22′10″ W)

That airspace extending upward from the surface within 1.1 miles on each side of the Manchester VOR/DME 231° radial extending from the 5-mile radius to 8.4 miles northeast of Boire Field. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ANE NH E5 Nashua, NH [Amended]

Boire Field, NH
(Lat. 42°46′57″ N, long. 71°30′51″ W)

That airspace extending upward from 700 feet above the surface within a 7.9-mile radius of Boire Field

Issued in College Park, Georgia, on March 11, 2020.

Ryan Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2020–05989 Filed 3–23–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0274; Airspace Docket No. 20–ASO–8]

RIN 2120–AA66

Amendment of Area Navigation (RNAV) Route Q–56 in the Vicinity of Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends area navigation (RNAV) route Q–56 in the vicinity of Atlanta, GA, by re-establishing the route over the KBLER, GA, waypoint, which was recently removed from the route. Subsequent to the recent publication of the rule that removed the KBLER waypoint from Q–56, the FAA has identified safety related issues resulting from the removal of the waypoint and the resultant relocation of the affected route segment. This action amends Q–56 to reflect the route as it was charted prior to the KBLER waypoint being removed, addresses the safety issues created by the removal of the waypoint from the route, and restores the safety and efficiency of the high altitude enroute structure supporting the flow of air traffic in the vicinity of the Atlanta, GA, and Charlotte, NC, Metroplex areas.

DATES: Effective date 0901 UTC, May 21, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

In 2014, the FAA established 14 RNAV Q-routes and modified 4 Q-routes to enhance the efficiency of the National Airspace System (NAS) by improving the flow of air traffic in the vicinity of the Atlanta, GA, and Charlotte, NC, Metroplex areas. One of the Q-routes established at that time was Q–56, which was designed with the KBLER, GA, waypoint included in the route between the CATLN, AL, fix and the KELLN, SC, waypoint.

The FAA recently published a rule in the **Federal Register** for Docket No. FAA–2018–0817 (85 FR 3814; January 23, 2020) to amend and establish multiple Air Traffic Service (ATS) routes due to the planned decommissioning of the Hobby, TX, VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) navigation aid. One of the routes amended in that action was Q–56, which included an amendment removing the KBLER, GA, waypoint.

The removal of the KBLER, GA, waypoint from Q–56 has inadvertently created safety issues within the Atlanta Air Route Traffic Control Center (ARTCC) airspace by effectively moving the affected route segment 3 miles to the south at a heavily used choke point east of the Hartsfield-Jackson Atlanta International Airport. By moving the affected route segment south in that area, controllers are now required to ensure that point-out coordination of aircraft on Q–56 is accomplished because the route in that area is less than 2.5 miles from the adjacent ATC sector boundaries. If air traffic control misses this additional point-out coordination, the result will be an airspace violation and possible loss of aircraft separation.

The unintended airway change also effects how aircraft inbound to Charlotte/Douglas International Airport are handled via the JONZE standard terminal arrival route (STAR). The original Q–56 route design, with the KBLER waypoint included, ensured that Charlotte/Douglas International Airport arrival aircraft flying the JONZE STAR would diverge from Q–56 at a point where Atlanta ARTCC controllers were able to transition the arrival aircraft through overflight traffic in the area in a manner that would meet descent restrictions established by the Charlotte Terminal Radar Approach Control (TRACON) controllers based on current traffic flows. With the affected Q–56 route segment being relocated closer to the adjacent ATC sector boundaries, it has created additional safety concerns associated with ATC being able to descend Charlotte/Douglas International Airport arrival aircraft in a timely manner to meet descent restrictions and impacting the efficiencies realized by the Charlotte/Douglas International Airport Optimized Profile Descent (OPD) procedures. Further, the possibility that ATC may be unable to meet descent restrictions for Charlotte/Douglas International Airport arrival aircraft could also result in the Charlotte TRACON being unable to accept the

arrival aircraft into their airspace; thus creating airspace congestion and safety issues for ATC to resolve.

Lastly, the RNAV Q-routes that were established in 2014 within Atlanta ARTCC's airspace, which included Q–56, were designed to ensure the required separation between the routes to integrate the departure flows from two of the top 10 busiest airports, Hartsfield-Jackson Atlanta International Airport and Charlotte/Douglas International Airport. To support the integration of departure flows, procedural separation was leveraged for as long as possible in order to establish air traffic flow efficiencies supporting both airports. With the affected Q–56 route segment now relocated 3 miles south of its original position, another unintended safety issue has been created by changing the point where conflictions between Q–56 and Q–64 occur. Absent the procedural separation benefits associated with Q–56 being charted over the KBLER waypoint, the complexity of separating aircraft operating on Q–56 and Q–64 is increased significantly; requiring additional controllers to overcome potential loss of separation safety issues.

RNAV Q-routes are published in paragraph 2006 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The RNAV Q-route listed in this rule will be subsequently published in the Order.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying RNAV route Q–56. Specifically, this action re-establishes Q–56 over the KBLER, GA, waypoint to resolve safety issues resulting from the waypoint having been removed from the route recently. Unanticipated safety issues identified subsequent to the publication of the rule that removed the KBLER waypoint from Q–56 have made this action necessary. The revised Q–56 RNAV route, overlying the KBLER waypoint, will reduce the unintended safety related issues of increased ATC sectors workload and complexity, reduce the increased ATC coordination and pilot-to-controller communications requirements, and safely restore the high altitude enroute structure supporting previous air traffic flows and capacity efficiencies in the Atlanta, GA, and Charlotte, NC, Metroplex areas. Because the issues described above require prompt resolution, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

The RNAV route modification accomplished by this action is outlined below.

Q–56: Q–56 extends between the San Antonio, TX, VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) navigation aid and the KIWII, VA, waypoint (WP). The KBLER, GA, WP is added between the CATLN, AL, fix and the KELLN, SC, WP. The unaffected portions of the existing route remain as charted.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying RNAV route Q–56 near Atlanta, GA, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, Paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–56 San Antonio, TX (SAT) to KIWII, VA [Amended]

San Antonio, TX (SAT)	VORTAC	(Lat. 29°38′38.51″ N, long. 098°27′40.73″ W)
MOLLR, TX	WP	(Lat. 29°39′20.23″ N, long. 095°16′35.83″ W)
PEKON, LA	FIX	(Lat. 29°37′22.88″ N, long. 092°55′26.37″ W)
Harvey, LA (HRV)	VORTAC	(Lat. 29°51′00.70″ N, long. 090°00′10.74″ W)

Semmes, AL (SJI)	VORTAC	(Lat. 30°43′33.53″ N, long. 088°21′33.46″ W)
CATLN, AL	FIX	(Lat. 31°18′26.03″ N, long. 087°34′47.75″ W)
KBLER, AL	WP	(Lat. 33°43′20.65″ N, long. 083°43′13.71″ W)
KELLN, SC	WP	(Lat. 34°31′33.22″ N, long. 082°10′16.92″ W)
KTOWN, NC	WP	(Lat. 35°11′49.14″ N, long. 081°03′18.27″ W)
BYSCO, NC	WP	(Lat. 35°46′09.25″ N, long. 080°04′33.85″ W)
JOOLI, NC	WP	(Lat. 35°54′55.21″ N, long. 079°49′16.24″ W)
NUUMN, NC	WP	(Lat. 36°09′53.78″ N, long. 079°23′38.70″ W)
ORACL, NC	WP	(Lat. 36°28′01.58″ N, long. 078°52′14.80″ W)
KIWII, VA	WP	(Lat. 36°34′56.91″ N, long. 078°40′03.92″ W)

* * * * *

Issued in Washington, DC, on March 18, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–06052 Filed 3–23–20; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1204

[Document Number NASA–20–035; Docket Number–NASA–2020–0003]

RIN 2700–AE55

NASA Guidance Procedures

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule incorporates the National Aeronautics and Space Administration's (NASA) existing internal policy and procedures relating to the issuance of guidance documents into the Code of Federal Regulations.

DATES: *Effective:* April 23, 2020.

FOR FURTHER INFORMATION CONTACT: Nanette Jennings, Directives and Regulations Management, Mission Support Directorate, (202) 358–0819, *nanette.jennings@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Executive Order 13891, Promoting the Rule of Law Through Improved Agency Guidance Documents, requires agencies to finalize regulations to set forth processes and procedures for issuing guidance documents to include:

- Requirements for each guidance document to clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.
- Procedures for the public to petition for withdrawal or modification of a particular guidance document, including a designation of the officials to which the petition should be directed.
- Provisions requiring significant guidance documents, unless exempted for reasons of exigency, safety, health, or other compelling cause as determined by NASA and the Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA) Administrator, to undergo a 30-day public notice and comment period; be approved on a non-delegable basis by the NASA Administrator; be reviewed by OIRA; and comply with the applicable requirements for guidance documents including significant regulatory actions.

This final rule also incorporates NASA's existing internal policy and procedures, NASA Policy Directive (NPD) 1400.2, Publishing NASA Documents in the **Federal Register** and Responding to Regulatory Actions, into the Code of Federal Regulation (CFR) in response to the order. NPD 1400.2 establishes the Agency's policy, procedures, and responsibilities for issuing guidance documents to ensure that the required review and clearance is obtained before issuance and all stages of the rulemaking process are followed.

II. Regulatory Analysis

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

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

Executive Order 13132—Federalism

Executive Order 13132 requires agencies to ensure meaningful and timely input by state and local officials in the development of regulatory policies that may have a substantial, direct effect on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. This action has been analyzed in accordance with the principles and criteria contained in the order, and NASA has determined that this action will not have a substantial direct effect or federalism implications on the states and would not preempt any state law or regulation or affect the states' ability to discharge traditional state governmental functions. Therefore, consultation with the states is not necessary.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175. NASA has determined that because this rulemaking does not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13175 does not apply.

Executive Order 13771—Reducing Regulations and Controlling Regulatory Costs

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

Regulatory Flexibility Act

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Administrative Procedure Act

This final rule merely incorporates requirements of the order and NASA's existing internal policy and procedures for issuing guidance documents into the CFR. Therefore, in accordance with 5 U.S.C. 553, the Administrator of NASA has concluded that there is good cause to publish this rule without prior opportunity for public comment because the action is of Agency

organization, procedure, or practice. See 5 U.S.C 553(b)(3)(A).

Statutory Authority

Part 1204 is established under the National Aeronautics and Space Act (Space Act). In accordance with 51 U.S.C. 20113(a), ''In the performance of its functions, the Administration is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law.''

Paperwork Reduction Act

This rule does not contain an information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments.

List of Subjects in 14 CFR Part 1204

Administrative practice and procedure.

For reasons set forth in the preamble, and under the authority of 51 U.S.C. 20113, NASA is amending 14 CFR part 1204 as follows:

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

■ 1. Add subpart 3 to read as follows:

Subpart 3—NASA Guidance Documents

Sec.

Authority: 51 U.S.C. 20113.

§ 1204.300 General.

(a) This subpart governs all National Aeronautics and Space Administration (NASA or Agency) employees and contractors involved with all phases of issuing NASA guidance documents.

(b) Subject to the qualifications and exemptions contained in this subpart, the procedures in this subpart apply to all guidance documents issued by NASA after April 23, 2020.

(c) For purposes of this subpart, the term guidance document includes any statement of Agency policy or interpretation concerning a statute, regulation, or technical matter within the jurisdiction of the Agency that is intended to have general applicability and future effect, but which is not intended to have the force or effect of law in its own right and is not otherwise required by statute to satisfy the rulemaking procedures specified in 5 U.S.C. 553 or 5 U.S.C. 556. The term is not confined to formal written documents; guidance may come in a variety of forms, including (but not limited to) letters, memoranda, circulars, bulletins, advisories, and may include video, audio, and web-based formats. See Office of Management and Budget (OMB) Bulletin 07–02, ''Agency Good Guidance Practices,'' (''OMB Good Guidance Bulletin'').

(d) This subpart does not apply to:

(1) Rules exempt from rulemaking requirements under 5 U.S.C. 553(a);

(2) Rules of Agency organization, procedure, or practice;

(3) Decisions of Agency adjudications under 5 U.S.C. 554 or similar statutory provisions;

(4) Internal executive branch legal advice or legal advisory opinions addressed to executive branch officials;

(5) Agency statements of specific applicability, including advisory or legal opinions directed to particular parties about circumstance-specific questions (*e.g.,* case or investigatory letters responding to complaints, warning letters), notices regarding particular locations or facilities (*e.g.,* guidance pertaining to the use, operation, or control of a government facility or property), and correspondence with individual persons or entities (*e.g.,* congressional correspondence), except documents ostensibly directed to a particular party but designed to guide the conduct of the broader regulated public;

(6) Legal briefs, other court filings, or positions taken in litigation or enforcement actions;

(7) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation, including speeches and individual presentations, editorials, media interviews, press materials, or congressional testimony that do not set forth for the first time a new regulatory policy;

(8) Guidance pertaining to military or foreign affairs functions;

(9) Grant solicitations and awards;

(10) Contract solicitations and awards; or

(11) Purely internal Agency policies or guidance directed solely to NASA employees or contractors or to other Federal agencies that are not intended to have substantial future effect on the behavior of regulated parties.

§ 1204.301 Review and clearance.

All NASA guidance documents, as defined in § 1204.300(c), require review and clearance in accordance with this subpart.

(a) Guidance proposed by a NASA responsible office must be reviewed by the head of the relevant legal practice group within NASA's Office of General Counsel (OGC) and cleared by the General Counsel.

(b) Additional reviews by other NASA offices are also conducted and are described in NPD 1400.2, Publishing NASA Documents in the **Federal Register** and Responding to Regulatory Actions, *https://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPD&c=1400&s=2E*.

§ 1204.302 Requirements for clearance.

NASA's review and clearance of guidance shall ensure that each guidance document proposed by a NASA responsible office satisfies the following requirements:

(a) The guidance document complies with all relevant statutes and regulation (including any statutory deadlines for Agency action);

(b) The guidance document identifies or includes:

(1) The term ''guidance'' or its functional equivalent;

(2) The issuing NASA responsible office name;

(3) A unique identifier, including, at a minimum, the date of issuance and title of the document and its regulatory identification number (RIN), if applicable;

(4) The activity or entities to which the guidance applies;

(5) Citations to applicable statutes and regulations;

(6) A statement noting whether the guidance is intended to revise or replace any previously issued guidance and, if so, sufficient information to identify the previously issued guidance; and

(7) A short summary of the subject matter covered in the guidance document at the top of the document;

(c) The guidance document avoids using mandatory language, such as ''shall,'' ''must,'' ''required,'' or ''requirement,'' unless the language is describing an established statutory or regulatory requirement or is addressed to NASA employees and will not foreclose NASA's consideration of positions advanced by affected private parties;

(d) The guidance document is written in plain and understandable English; and

(e) All guidance documents include a clear and prominent statement declaring that the contents of the document do not have the force and effect of law, are not meant to bind the public in any way, and the document is intended only to provide clarity to the public regarding existing requirements under the law or NASA's policies.

§ 1204.303 Public access to effective guidance documents.

The NASA responsible office issuing guidance documents shall:

(a) Ensure all effective guidance documents, identified by a unique identifier which includes, at a minimum, the document's title and date of issuance or revision and its RIN, if applicable, are on its website in a single, searchable, indexed database, and available to the public in accordance with § 1204.309;

(b) Note on its website that guidance documents lack the force and effect of law, except as authorized by law or as incorporated into a contract;

(c) Advertise on its website where the public can comment electronically on any guidance documents that are subject to the notice-and-comment procedures described in § 1204.308 and to submit requests electronically for issuance, reconsideration, modification, or rescission of guidance documents. Guidance documents subject to the notice-and-comment procedures, but not published on the Agency's website, will be rescinded; and

(d) Designate an office to receive and address complaints from the public that NASA is not following the requirements of OMB's Good Guidance Bulletin or is improperly treating a guidance document as a binding requirement.

§ 1204.304 Good faith cost estimates.

Even though not legally binding, some Agency guidance may result in a substantial economic impact. For example, the issuance of Agency guidance may induce private parties to alter their conduct to conform to recommended standards or practices, thereby incurring costs beyond the costs of complying with existing statutes and regulations. While it may be difficult to predict with precision the economic impact of voluntary guidance, the proposing NASA responsible office shall, to the extent practicable, make a good faith effort to estimate the likely economic cost impact of the guidance document to determine whether the document might be significant. When a NASA responsible office is assessing or explaining whether it believes a guidance document is significant, it should, at a minimum, provide the same level of analysis that would be required for a major determination under the Congressional Review Act. When NASA determines that a guidance document will be economically significant, the NASA responsible office should conduct and publish a Regulatory Impact Analysis of the sort that would accompany an economically significant rulemaking, to the extent reasonably possible.

§ 1204.305 Approved procedures for guidance documents identified as ''significant'' or ''otherwise of importance to the NASA's interests.''

(a) For guidance proposed by a NASA responsible office, if there is a reasonable possibility the guidance may be considered ''significant'' or ''otherwise of importance to NASA's interests'' within the meaning of § 1204.306 or if the NASA responsible office is uncertain whether the guidance may qualify as such, the NASA responsible office should email a copy of the proposed guidance document (or a summary of it) to OGC for review and further direction before issuance. Unless exempt, each proposed NASA guidance document determined to be significant or otherwise of importance to NASA's interests must be approved by the NASA Administrator before issuance. In such instances, the NASA Mission Support Directorate (MSD) will:

(1) Request that the proposing NASA responsible office obtain a RIN to report what NASA is planning to issue;

(2) Coordinate the guidance document with OMB's Office of Information and Regulatory Affairs (OIRA) for the interagency review, final significance determination, and clearance; and

(3) Advise the NASA responsible office on coordinating the guidance document for an internal NASA review before submitting it to the NASA Administrator for approval.

(b) If the guidance document is determined not to be either significant or otherwise of importance to NASA's interests within the meaning of § 1204.306, OGC will advise the NASA responsible office to proceed with issuance of the guidance through the NASA MSD for publication in the **Federal Register**. For each guidance document coordinated through the NASA MSD, the issuing NASA responsible office should include a statement in the action memorandum indicating that the guidance document has been reviewed and cleared in accordance with this process.

§ 1204.306 Definitions of ''significant guidance document'' and guidance documents that are ''otherwise of importance to NASA's interests.''

(a) The term ''significant guidance document'' means a guidance document that will be disseminated to regulated entities or the general public and that may reasonably be anticipated:

(1) To lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the U.S. economy, a sector of the U.S. economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. Historically, NASA has not issued any significant guidance documents with these implications;

(2) To create serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency;

(3) To alter materially the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) To raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866, as further amended.

(b) The term ''significant guidance document'' does not include the categories of documents excluded by § 1204.306 or any other category of guidance documents exempted in writing by NASA in consultation with OIRA.

(c) Significant and economically significant guidance documents must be reviewed by OIRA under E.O. 12866 before issuance and must demonstrate compliance with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in E.O. 12866, E.O. 13563, E.O. 13609, E.O. 13771, and E.O. 13777.

(d) Even if not ''significant,'' a guidance document will be considered ''otherwise of importance to NASA's interests'' within the meaning of this paragraph (d) if it may reasonably be anticipated:

(1) To relate to a major program, policy, or activity of NASA or a high-

profile issue pending for decision before NASA;

(2) To involve one of the NASA Administrator's top policy priorities;

(3) To garner significant press or congressional attention; or

(4) To raise significant questions or concerns from constituencies of importance to NASA, such as Committees of Congress, states, Indian tribes, the White House or other departments of the Executive Branch, courts, consumer or public interest groups, or leading representatives of industry.

§ 1204.307 Designation procedures.

(a) OGC may request a NASA responsible office to prepare a designation request for their respective guidance document. Designation requests must include the following information:

(1) A summary of the guidance document; and

(2) The NASA responsible office's recommended designation of ''not significant,'' ''significant,'' or ''economically significant,'' as well as a justification for that designation.

(b) Except as otherwise provided in paragraph (c) of this section, the NASA MSD will seek significance determinations from OIRA. Prior to publishing these guidance documents, and with sufficient time to allow OIRA to review the document in the event that a significance determination is made, the NASA MSD should provide OIRA with an opportunity to review the designation request or the guidance document, if requested, to determine if it meets the definition of ''significant'' or ''economically significant'' under Executive Order 13891.

(c) Unless they present novel issues, significant risks, interagency considerations, unusual circumstances, or other unique issues, the categories of guidance documents exempted pursuant to an agreement between NASA and OIRA do not require designation by OIRA.

§ 1204.308 Notice-and-comment procedures.

(a) Except as provided in paragraph (b) of this section, all proposed NASA guidance documents determined to be a ''significant guidance document'' within the meaning of § 1204.306 are subject to notice-and-comment procedures. The issuing NASA responsible office shall publish an advance notice in the **Federal Register** of the proposed guidance document and invite public comments for a minimum of 30 days, then publish a response to major concerns raised in the comments when the final guidance document is published.

(b) The requirements of paragraph (a) of this section will not apply to any significant guidance document or categories of significant guidance documents for which OGC finds, in consultation with OIRA, the proposing NASA responsible office, and the NASA Administrator, good cause that notice-and-comment procedure thereon are impracticable, unnecessary, or contrary to the public interest (and incorporates the finding of good cause and a brief statement of reasons in the guidance issued). Unless the NASA responsible office, in consultation with OGC, advises otherwise in writing, the categories of guidance exempted pursuant to an agreement between NASA and OIRA will be exempt from the requirements of paragraph (a) of this section.

(c) Where appropriate, the NASA responsible office, in consultation with OGC, may recommend to the NASA Administrator that a particular guidance document that is otherwise of importance to NASA's interests shall also be subject to the informal notice-and-comment procedures described in paragraph (a) of this section.

§ 1204.309 Petitions for guidance.

(a) Interested parties may submit petitions to NASA requesting withdrawal or modification of any effective guidance document by selecting the ''petition'' link for the respective guidance document located on the NASA Regulations website at: *https://nodis3.gsfc.nasa.gov/CFR_rep/CFR_list.cfm*.

(b) Interested parties should include the guidance document's title and a summarized justification describing why the document should be withdrawn, how it should be modified, or the nature of the complaint in the petition in order to receive an expedited response.

(c) The responsible office, in consultation with OGC, will review the petition, determine if withdrawal or modification is necessary or the best way to resolve the complaint, and respond to the petitioner with a decision no later than 90 days after receipt of the request.

§ 1204.310 Rescinded guidance.

No NASA office or NASA Center may cite, use, or rely on guidance documents that are rescinded, except to establish historical facts.

§ 1204.311 Exigent circumstances.

In emergency situations or when NASA is required by statutory deadline or court order to act more quickly than normal review procedures allow, the issuing NASA responsible office shall coordinate with NASA's MSD to notify OIRA as soon as possible and, to the extent practicable, comply with the requirements of this subpart at the earliest opportunity. Wherever practicable, the issuing NASA responsible office should schedule its proceedings to permit sufficient time to comply with the procedures set forth in this subpart.

§ 1204.312 Reports to Congress and the Government Accountability Office (GAO).

Unless otherwise determined in writing by NASA, it is the policy of the Agency that upon issuing a guidance document determined to be ''significant'' within the meaning of § 1204.306, the issuing NASA responsible office will submit a report to Congress and GAO in accordance with the procedures described in 5 U.S.C. 801 (the ''Congressional Review Act'').

§ 1204.313 No judicial review or enforceable rights.

This subpart is intended to improve the internal management of NASA. As such, it is for the use of NASA personnel only and is not intended to, and does not create any right or benefit, substantive or procedural, enforceable by law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

Nanette Smith,

Team Lead for NASA Directives and Regulations.

[FR Doc. 2020–05675 Filed 3–23–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1264 and 1271

[Document Number NASA–2020–032: Docket Number–NASA–2020–0002]

RIN 2700–AE52

Implementation of the Federal Civil Penalties Inflation Adjustment Act and Adjustment of Amounts for 2020

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) has adopted a final rule making inflation adjustments to civil monetary penalties within its jurisdiction. This final rule represents the annual 2020 inflation adjustments of monetary penalties.

These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: This final rule is effective March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Bryan R. Diederich, Office of the General Counsel, NASA Headquarters, telephone (202) 358–0216.

SUPPLEMENTARY INFORMATION:

I. Background

The Inflation Adjustment Act, as amended by the 2015 Act, required Federal agencies to adjust the civil penalty amounts within their jurisdiction for inflation by July 1, 2016. Subsequent to the 2016 adjustment, Federal agencies were required to make an annual inflation adjustment by January 15 every year thereafter.[1] Under the amended Act, any increase in a civil penalty made under the Act will apply to penalties assessed after the increase takes effect, including penalties whose associated violation predated the increase.[2] The inflation adjustments mandated by the Act serve to maintain the deterrent effect of civil penalties and to promote compliance with the law.

Pursuant to the Act, adjustments to the civil penalties are required to be made by January 15 of each year. The annual adjustments are based on the percent change between the U.S. Department of Labor's Consumer Price Index for All Urban Consumers (''CPI–U'') for the month of October preceding the date of the adjustment and the CPI–U for October of the prior year (28 U.S.C. 2461 note, section (5)(b)(1)). Based on that formula, the cost-of-living adjustment multiplier for 2020 is 1.01764 percent. Pursuant to the 2015 Act, adjustments are rounded to the nearest dollar.

II. The Final Rule

This final rule makes the required adjustments to civil penalties for 2020. Applying the 2020 multiplier above, the adjustments for each penalty are summarized below.

Law	Penalty description	2019 penalty	Penalty adjusted for 2020
Program Fraud Civil Remedies Act of 1986	Maximum Penalties for False Claims	$11,463	$11,665
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101–121, sec. 319.	Minimum Penalty for use of appropriated funds to lobby or influence certain contracts.	20,134	20,489
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101–121, sec. 319.	Maximum Penalty for use of appropriated funds to lobby or influence certain contracts.	201,340	204,892
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101–121, sec. 319.	Minimum penalty for failure to report certain lobbying transactions.	20,134	20,489
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101–121, sec. 319.	Maximum penalty for failure to report certain lobbying transactions.	201,340	204,892

This rule codifies these civil penalty amounts by amending parts 1264 and 1271 of title 14 of the CFR.

III. Legal Authority and Effective Date

NASA issues this rule under the Federal Civil Penalties Inflation Adjustment Act of 1990,[3] as amended by the Debt Collection Improvement Act of 1996,[4] and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,[5] which requires NASA to adjust the civil penalties within its jurisdiction for inflation according to a statutorily prescribed formula.

Section 553 of title 5 of the United States Code generally requires an agency to publish a rule at least 30 days before its effective date to allow for advance notice and opportunity for public comments.[6] After the initial adjustment for 2016, however, the Civil Penalties Inflation Adjustment Act requires agencies to make subsequent annual adjustments for inflation ''notwithstanding section 553 of title 5, United States Code.'' Moreover, the 2020 adjustments are made according to a statutory formula that does not provide for agency discretion. Accordingly, a delay in effectiveness of the 2020 adjustments is not required.

IV. Regulatory Requirements

Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under E.O. 12866 and was not reviewed by the Office of Management and Budget (OMB).

Executive Order 13771

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

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[7]

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,[8] NASA reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects in 14 CFR Parts 1264 and 1271

Claims, Lobbying, Penalties.

For the reasons stated in the preamble, the National Aeronautics and Space Administration is amending 14 CFR parts 1264 and 1271 as follows:

[1] *See* 28 U.S.C. 2461 note.

[2] Inflation Adjustment Act section 6, *codified at* 28 U.S.C. 2461 note.

[3] Public Law 101–410, 104 Stat. 890 (1990).

[4] Public Law 104–134, section 31001(s)(1), 110 Stat. 1321, 1321–373 (1996).

[5] Public Law 114–74, section 701, 129 Stat. 584, 599 (2015).

[6] *See* 5 U.S.C. 533(d).

[7] 5 U.S.C. 603(a), 604(a).

[8] 44 U.S.C. 3506.

PART 1264—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL PENALTIES ACT OF 1986

■ 1. The authority citation for part 1264 continues to read as follows:

Authority: 31 U.S.C. 3809, 51 U.S.C. 20113(a).

§ 1264.102 [Amended]

■ 2. Amend § 1264.102, by removing the number ''$11,463'' everywhere it appears and adding in its place the number ''$11,665.''

PART 1271—NEW RESTRICTIONS ON LOBBYING

■ 3. The authority citation for part 1271 continues to read as follows:

Authority: Section 319, Pub. L. 101–121 (31 U.S.C. 1352); Pub. L. 97–258 (31 U.S.C. 6301 *et seq.*).

§ 1271.400 [Amended]

■ 4. In § 1271.400:
■ a. Amend paragraphs (a) and (b), by removing the words ''not less than $20,134 and not more than $201,340'' and adding in their place the words ''not less than $20,489 and not more than $204,892.''
■ b. Amend paragraph (e), by removing ''$20,134'' wherever it appears and adding in its place ''$20,489'' and removing ''$201,340'' and adding in its place ''$204,892.''

Appendix A to Part 1271 [Amended]

■ 5. Amend appendix A to part 1271 by:
■ a. Removing the number ''$20,134'' everywhere it appears and adding in its place the number ''$20,489.''
■ b. Removing the number ''$201,340'' everywhere it appears and adding in its place the number ''$204,892.''

Nanette Smith,

Team Lead for NASA Directives and Regulations, Mission Support Operations.

[FR Doc. 2020–05337 Filed 3–23–20; 8:45 am]

BILLING CODE 7510–13–P

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Parts 806

Review and Approval of Projects

AGENCY: Susquehanna River Basin Commission.

ACTION: Final rule.

SUMMARY: This document contains rules that amend the regulations of the Susquehanna River Basin Commission (Commission) dealing with the mitigation of consumptive uses.

DATES: This rule is effective on April 1, 2020.

ADDRESSES: Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Esq., General Counsel and Secretary, telephone: 717–238–0423, ext. 1312; fax: 717–238–2436; email: *joyler@srbc.net.* Also, for further information, including the comment response document, visit the Commission's website at *http://www.srbc.net.*

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published in the **Federal Register** on September 13, 2019; *New York Register* on October 2, 2019; *Pennsylvania Bulletin* on September 21, 2019; and *Maryland Register* on October 11, 2019. The Commission convened a public hearing on October 31, 2019 in Harrisburg, Pennsylvania. A written comment period was held open through November 12, 2019. Concurrent with the proposed rule, the Commission also released a draft Consumptive Use Mitigation Policy for public review and comment.

The Commission received four comments on the proposed rule and policy. Two of the comments were fully supportive of the rule and policy and offered no suggested changes. The additional two comments were supportive but offered a few suggestions for revisions to the rule and/or the policy.

One commenter sought clarification of the term ''present'' low flow conditions in § 806.22(b)(1)(i) and offered alternative phrasing. The Commission believes the phrasing of the rule is not ambiguous and provided clarification in the comment response document. Two commenters asked for the Commission to further amend § 806.22(b)(1)(iii) related to discontinuance. One commenter wanted discontinuance to be limited to a 45 day period. This would be a new requirement and a change to the current practice that requires discontinuance to endure for the entire Commission declared low flow period, and the Commission declines to make this change. Another commenter suggested that 20,000 gallon per day threshold for discontinuance be on an average 30 day basis instead of a peak day basis established in the rulemaking. The Commission was purposeful in the discontinuance revision to be based on a peak day rate. The use of a 30-day average rate would be inappropriate given it would allow an exceedance of the Commission's regulatory threshold that could introduce impacts during Commission-designated low flow periods, which do not have a set minimum or maximum duration.

Accordingly, after thorough review and analysis of the comments, the Commission has not made any changes to the rulemaking as proposed. To the degree the comments seek clarification of the rules or explanation how they will be implemented, the Commission believes that can be addressed through explanation or clarifications in fact sheets, application instructions and other implementation documents. A more detailed comment response document has been prepared and is available upon request and also at the Commission's website listed above.

List of Subjects in 18 CFR Part 806

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission amends 18 CFR part 806 as follows:

PART 806—REVIEW AND APPROVAL OF PROJECTS

■ 1. The authority citation for part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5 (5), 3.8, 3.10 and 15.2, Pub. L. 91–575, 84 Stat. 1509 *et seq.*

■ 2. Amend § 806.22 by revising paragraphs (b)(1) and (e)(1) to read as follows:

§ 806.22 Standards for consumptive use of water.

* * * * *

(b) * * *

(1) During low flow periods as may be designated by the Commission for consumptive use mitigation.

(i) Reduce withdrawal from the approved source(s), in an amount equal to the project's consumptive use, and withdraw water from alternative surface water storage or aquifers or other underground storage chambers or facilities approved by the Commission, from which water can be withdrawn for a period of 45 continuous days such that impacts to nearby surface waters will not likely be at a magnitude or in a timeframe that would exacerbate present low flow conditions.

(ii) Release water for flow augmentation, in an amount equal to the project's consumptive use, from surface water storage or aquifers, or other underground storage chambers or facilities approved by the Commission, from which water can be withdrawn for a period of 45 continuous days such that impacts to nearby surface waters will not likely be at a magnitude or in a

timeframe that would exacerbate present low flow conditions.

(iii) Discontinue the project's consumptive use, which may include reduction of the project sponsor's consumptive use to less than 20,000 gpd during periods of low flow. In any case of failure to provide the specified discontinuance, such project shall provide mitigation in accordance with paragraph (b)(3) of this section, for the calendar year in which such failure occurs, after which the Commission will reevaluate the continued acceptability of the discontinuance.

* * * * *

(e) * * *

(1) *General rule.* Except with respect to projects involving hydrocarbon development subject to the provisions of paragraph (f) of this section, any project that is solely supplied water for consumptive use by public water supply, stormwater, wastewater, or other reused or recycled water, or any combination thereof, may be approved by the Executive Director under this paragraph (e) in accordance with the following, unless the Executive Director determines that the project cannot be adequately regulated under this approval by rule.

* * * * *

Dated: March 16, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020–05871 Filed 3–23–20; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico

AGENCY: Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Notification of temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel'' as further defined in this document.

DATES: These restrictions go into effect at 11:59 p.m. Eastern Daylight Time (EDT) on March 20, 2020 and will remain in effect until 11:59 p.m. EDT on April 20, 2020.

FOR FURTHER INFORMATION CONTACT: Alyce Modesto, Office of Field Operations, U.S. Customs and Border Protection (CBP) at 202–344–3788.

SUPPLEMENTARY INFORMATION:

Background

Coronavirus Disease 2019 (COVID–19), a communicable disease caused by a new (novel) coronavirus named SARS–CoV–2, is a respiratory disease that can cause fever, cough, and difficulty breathing, with reported illnesses ranging from mildly symptomatic to severe illness and death. Although the virus that causes COVID–19 was originally detected in China, it has resulted in a pandemic with cases in 158 countries, including in the United States and Mexico. On January 30, 2020, the Director-General of the World Health Organization declared the outbreak a ''public health emergency of international concern'' under the International Health Regulations (2005).[1] On January 31, 2020, the Secretary of the Department of Health and Human Services declared a nationwide ''public health emergency'' under section 319 of the Public Health Service Act, 42 U.S.C. 274d, as a result of confirmed cases of COVID–19.[2] On March 11, 2020, the World Health Organization announced that the COVID–19 outbreak can be characterized as a pandemic. On March 13, 2020, the President determined that the ongoing COVID–19 pandemic is of sufficient severity and magnitude to warrant an emergency determination under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207. In addition, on March 13, 2020, the President declared a national emergency under sections 201 and 301 of the National Emergencies Act, 50 U.S.C. 1601 *et seq.*[3] The Mexican Ministry of Education has closed all schools from March 20 until April 20, and between March 23 and April 19, the Mexican government has implemented a domestic social-distancing campaign to minimize the spread of the virus that causes COVID–19.

Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, I have determined that the risk of continued transmission and spread of COVID–19 between the United States and Mexico poses a ''specific threat to human life or national interests.''

U.S. and Mexican officials have mutually determined that non-essential travel between the United States and Mexico poses additional risk of transmission and spread of COVID–19 and places the populace of both nations at increased risk of contracting COVID–19. Moreover, given the sustained human-to-human transmission of the virus, maintaining the current level of travel between the two nations places the personnel staffing land ports of entry between the United States and Mexico, as well as the individuals traveling through these ports of entry, at increased risk of exposure to COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[4] I have determined that land ports of entry along the U.S.-Mexican border will suspend normal operations and process for entry only those travelers engaged in ''essential travel,'' defined below, for entry into the United States. Given the definition of ''essential travel'' below,

[1] Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019–nCoV) (Jan. 30, 2020), available at *https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov).*

[2] HHS, ''Determination that a Public Health Emergency Exists,'' *https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx.*

[3] Proclamation 9994 of Mar. 13, 2020 on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak, 85 FR 15337 (Mar. 18, 2020).

[4] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''take any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Mexico border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Mexico in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to support Federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Mexico);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Mexico, but does apply to passenger rail and ferry travel between the United States and Mexico. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on April 20, 2020. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad Mizelle, who is the Acting General Counsel for DHS, for purposes of publication in the **Federal Register**.

Chad R. Mizelle,

Acting General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–06253 Filed 3–20–20; 2:30 pm]

BILLING CODE 9112–FP–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Canada

AGENCY: Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Notification of temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel'' as further defined in this document.

DATES: These restrictions go into effect at 11:59 p.m. Eastern Daylight Time (EDT) on March 20, 2020 and will remain in effect until 11:59 p.m. EDT on April 20, 2020.

FOR FURTHER INFORMATION CONTACT: Alyce Modesto, Office of Field Operations, U.S. Customs and Border Protection (CBP) at 202–344–3788.

SUPPLEMENTARY INFORMATION:

Background

Coronavirus Disease 2019 (COVID–19), a communicable disease caused by a new (novel) coronavirus named SARS–CoV–2, is a respiratory disease that can cause fever, cough, and difficulty breathing, with reported illnesses ranging from mildly symptomatic to severe illness and death. Although the virus that causes COVID–19 was originally detected in China, it has resulted in a pandemic with cases in 158 countries, including in the United States and Canada. On January 30, 2020, the Director-General of the World Health Organization declared the outbreak a ''public health emergency of international concern'' under the International Health Regulations (2005).[1] On January 31, 2020, the Secretary of the Department of Health and Human Services declared a nationwide ''public health emergency'' under section 319 of the Public Health Service Act, 42 U.S.C. 274d, as a result of confirmed cases of COVID–19.[2] On March 11, 2020, the World Health Organization announced that the COVID–19 outbreak can be characterized as a pandemic. On March 13, 2020, the President determined that the ongoing COVID–19 pandemic is of sufficient severity and magnitude to warrant an emergency determination under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207. In addition, on March 13, 2020, the President declared a national emergency under sections 201 and 301 of the National Emergencies Act, 50 U.S.C. 1601 *et seq.*[3] To protect against the COVID–19 threat in Canada, the Government of Canada announced measures effective March 18, 2020 to close its borders to foreign nationals entering the country and to redirect international flight arrivals to predesignated airports. Additionally, multiple provinces within Canada declared states of emergency due to the COVID–19 outbreak.

[1] Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019–nCoV) (Jan. 30, 2020), available at *https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov).*

[2] HHS, ''Determination that a Public Health Emergency Exists,'' *https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx.*

[3] Proclamation 9994 of Mar. 13, 2020 on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak, 85 FR 15337 (Mar. 18, 2020).

Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, I have determined that the risk of continued transmission and spread of COVID–19 between the United States and Canada poses a ''specific threat to human life or national interests.''

U.S. and Canadian officials have mutually determined that non-essential travel between the United States and Canada poses additional risk of transmission and spread of COVID–19 and places the populace of both nations at increased risk of contracting COVID–19. Moreover, given the sustained human-to-human transmission of the virus, maintaining the current level of travel between the two nations places the personnel staffing land ports of entry between the United States and Canada, as well as the individuals traveling through these ports of entry, at increased risk of exposure to COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[4] I have determined that land ports of entry along the U.S.-Canadian border will suspend normal operations and process for entry only those travelers engaged in ''essential travel,'' defined below, for entry into the United States. Given the definition of ''essential travel'' below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Canada border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Canada in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to support Federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Canada);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Canada, but does apply to passenger rail and ferry travel between the United States and Canada. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on April 20, 2020. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad Mizelle, who is the Acting General Counsel for DHS, for purposes of publication in the **Federal Register**.

Chad R. Mizelle,

Acting General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–06217 Filed 3–20–20; 10:30 am]

BILLING CODE 9112–FP–P

[4] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''take any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1, 101, 112, 115, 117, 118, 507, and 800

[Docket No. FDA–2019–N–0011]

Office of Regulatory Affairs Division Director; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is revising chapter I of its regulations. These revisions are necessary to reflect changes to the Agency's organizational structure, including the reorganization of the Office of Regulatory Affairs. The revisions replace references to the District Director with references to the Division Director and make other related changes. The rule does not impose any new regulatory requirements on affected parties. This action is editorial in nature and is intended to improve the accuracy of the Agency's regulations.

DATES: This rule is effective March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Holli Kubicki, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20852, 240–402–4557.

SUPPLEMENTARY INFORMATION:

I. Background

The FDA Office of Regulatory Affairs (ORA) has reorganized to align field activities by FDA-regulated commodity (*e.g.,* food, drugs, medical devices) or program area (*e.g.,* imports). As a result, ORA division officials now perform certain duties such as those related to administrative appeals and informal hearings previously performed by district officials. FDA regulations included numerous references to district officials. The revisions made by this rule update these references to division officials, but do not alter any substantive standards.

II. Description of the Technical Amendments

The regulations specified in this rule have been revised to replace references to the ORA district official, including ''District Director'', with references to the ORA division official, including ''Division Director'', to reflect the ORA program alignment. In addition, we have made grammatical changes and minor conforming amendments as necessary to accommodate the new terminology.

We are making these technical amendments to revise descriptions of the FDA officials designated to preside over administrative appeals and at informal hearings on appeal, among other things. The amendments are technical and editorial in nature and should not be construed as modifying any substantive standards.

III. Notice and Public Comment

Publication of this document constitutes final action of these changes under the Administrative Procedure Act (APA) (5 U.S.C. 553). Section 553 of the APA exempts ''rules of agency organization, procedure, or practice'' from proposed rulemaking (*i.e.,* notice and comment rulemaking). 5 U.S.C. 553(b)(3)(A). Rules are also exempt when an Agency finds ''good cause'' that notice and comment rulemaking procedures would be ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B).

FDA has determined that this rulemaking meets the notice and comment exemption requirements in 5 U.S.C. 553(b)(3)(A) and (b)(3)(B). FDA's revisions relate solely to FDA's change in organizational structure and make only minor technical non-substantive changes that pertain solely to the designation of FDA officials, and do not alter any substantive standard. FDA does not believe public comment is necessary for these minor revisions.

The APA allows an effective date less than 30 days after publication as ''provided by the agency for good cause found and published with the rule'' (5 U.S.C. 553(d)(3)). A delayed effective date is unnecessary in this case because the amendments do not impose or alter any substantive requirements on affected parties. As a result, affected parties do not need time to prepare before the rule takes effect. Therefore, FDA finds good cause for the amendments to become effective on the date of publication of this action.

List of Subjects

21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 112

Dietary foods, Food grades and standards, Foods, Fruits, Incorporation by reference, Packaging and containers, Reporting and recordkeeping requirements, Safety, Vegetables.

21 CFR Part 115

Eggs and egg products, Foods.

21 CFR Part 117

Food packaging, Foods.

21 CFR Part 118

Eggs and egg products, Food grades and standards, Reporting and recordkeeping requirements.

21 CFR Part 507

Animal foods, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

21 CFR Part 800

Administrative practice and procedure, Medical devices, Ophthalmic goods and services, Packaging and containers, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Food and Drug Administration amends 21 CFR chapter I as set forth below:

PART 1—GENERAL ENFORCEMENT REGULATIONS

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

Authority: 15 U.S.C. 1333, 1453, 1454, 1455, 4402; 19 U.S.C. 1490, 1491; 21 U.S.C. 321, 331, 332, 333, 334, 335a, 342, 343, 350c, 350d, 350e, 350j, 350k, 352, 355, 360b, 360ccc, 360ccc–1, 360ccc–2, 362, 371, 373, 374, 379j–31, 381, 382, 384a, 384b, 384d, 387, 387a, 387c, 393; 42 U.S.C. 216, 241, 243, 262, 264, 271; Pub. L. 107–188, 116 Stat. 594, 668–69; Pub. L. 111–353, 124 Stat. 3885, 3889.

■ 2. Amend § 1.377 by revising the definition of ''Authorized FDA representative'' to read as follows:

§ 1.377 What definitions apply to this subpart?

* * * * *

Authorized FDA representative means an FDA Division Director in whose division the article of food involved is located or an FDA official senior to such director.

* * * * *

■ 3. In § 1.391, revise the first sentence to read as follows:

§ 1.391 Who approves a detention order?

An authorized FDA representative must approve a detention order. * * *

■ 4. Amend § 1.393 by revising paragraph (b)(12) to read as follows:

§ 1.393 What information must FDA include in the detention order?

* * * * *

(b) * * *

(12) The mailing address, telephone number, email address, fax number, and the name of the FDA Division Director in whose division the detained article of food is located;

* * * * *

■ 5. Amend § 1.402 by revising paragraph (a) introductory text to read as follows:

§ 1.402 What are the requirements for submitting an appeal?

(a) If you want to appeal a detention order, you must submit your appeal in writing to the FDA Division Director in whose division the detained article of food is located, at the mailing address, email address, or fax number identified in the detention order according to the following applicable timeframes:

* * * * *

■ 6. Amend § 1.403 by revising paragraphs (b) and (f) to read as follows:

§ 1.403 What requirements apply to an informal hearing?

* * * * *

(b) A request for a hearing under this section must be addressed to the FDA Division Director in whose division the article of food involved is located;

* * * * *

(f) Section 1.404, rather than § 16.42(a) of this chapter, describes the FDA employees who preside at hearings under this subpart;

* * * * *

■ 7. Revise § 1.404 to read as follows:

§ 1.404 Who serves as the presiding officer for an appeal and for an informal hearing?

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director.

■ 8. Amend § 1.980 by revising:
■ a. The first sentence of paragraph (c);
■ b. Paragraph (d)(3)(xi);
■ c. The first sentence of paragraph (e);
■ d. The second sentence of paragraph (g)(1);
■ e. Paragraphs (g)(3)(ii) and (iv) and (g)(4); and
■ f. Paragraphs (h)(2), (h)(3) introductory text, (h)(3)(iv), and (h)(4).

The revisions read as follows:

§ 1.980 Administrative detention of drugs.

* * * * *

(c) * * * The detention is to be for a reasonable period that may not exceed 20 calendar days after the detention order is issued, unless the FDA Division Director in whose division the drugs are located determines that a greater period is required to seize the drugs, to institute injunction proceedings, or to evaluate the need for legal action, in which case the Division Director may authorize detention for 10 additional calendar days. * * *

(d) * * *

(3) * * *

(xi) The mailing address, telephone number, and name of the FDA Division Director.

(e) * * * A detention order, before issuance, must be approved by the FDA Division Director in whose division the drugs are located. * * *

(g) * * *

(1) * * * Any appeal must be submitted in writing to the FDA Division Director in whose division the drugs are located within 5 working days of receipt of a detention order. * * *

(3) * * *

(ii) A request for a hearing under this section should be addressed to the FDA Division Director;

* * * * *

(iv) Paragraph (g)(4) of this section, rather than § 16.42(a) of this chapter, describes the FDA employees who preside at hearings under this section.

(4) The presiding officer of a regulatory hearing on an appeal of a detention order, who also must decide the appeal, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director who is permitted by § 16.42(a) of this chapter to preside over the hearing.

* * * * *

(h) * * *

(2) If detained drugs are not in final form for shipment, the manufacturer may move them within the establishment where they are detained to complete the work needed to put them in final form. As soon as the drugs are moved for the purpose in the preceding sentence, the individual responsible for their movement must orally notify the FDA representative who issued the detention order, or another responsible division office official, of the movement of the drugs. As soon as the drugs are put in final form, they must be segregated from other drugs, and the individual responsible for their movement must orally notify the FDA representative who issued the detention order, or another responsible division office official, of their new location. The drugs put in final form must not be moved further without FDA approval.

(3) The FDA representative who issued the detention order, or another responsible division office official, may approve, in writing, the movement of detained drugs for any of the following purposes:

* * * * *

(iv) For any other purpose that the FDA representative who issued the detention order, or other responsible division office official, believes is appropriate in the case.

(4) If an FDA representative approves the movement of detained drugs under paragraph (h)(3) of this section, the detained drugs must remain segregated from other drugs and the person responsible for their movement must immediately orally notify the official who approved the movement of the drugs, or another responsible FDA division office official, of the new location of the detained drugs.

* * * * *

PART 101—FOOD LABELING

■ 9. The authority citation for part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

■ 10. Amend § 101.17 by revising paragraphs (h)(7)(i)(A) and (E) introductory text, (h)(7)(ii)(A) through (C) introductory text, and (h)(7)(ii)(F) to read as follows:

§ 101.17 Food labeling warning, notice, and safe handling statements.

* * * * *

(h) * * *

(7) * * *

(i) * * *

(A) *Order for relabeling, diversion, or destruction under the PHS Act.* Any division office of FDA or any State or locality acting under paragraph (h)(6) of this section, upon finding shell eggs held in violation of this section, may serve upon the person in whose possession such eggs are found a written order that such eggs be relabeled with the required statement in paragraph (h)(1) of this section before further distribution. If the person chooses not to relabel, the division office of FDA or, if applicable, the appropriate State or local agency may serve upon the person a written order that such eggs be diverted (from direct consumer sale, *e.g.,* to food service) under the supervision of an officer or employee of the issuing entity, for processing in accordance with the EPIA (21 U.S.C. 1031 *et seq.*) or destroyed by or under the supervision of the issuing entity, within 10 working days from the date of receipt of the order.

* * * * *

(E) *Sale or other disposition of shell eggs under order.* After service of the order, the person in possession of the shell eggs that are the subject of the order shall not sell, distribute, or otherwise dispose of or move any eggs subject to the order unless and until the notice is withdrawn after an appeal except, after notifying FDA's division office or, if applicable, the State or local agency in writing, to:

* * * * *

(ii) * * *

(A) *Appeal of a detention order.* Any appeal shall be submitted in writing to the FDA Division Director in whose division the shell eggs are located within 5 working days of the issuance of the order. If the appeal includes a request for an informal hearing, the hearing shall be held within 5 working days after the appeal is filed or, if requested by the appellant, at a later date, which shall not be later than 20 calendar days after the issuance of the order. The order may also be appealed within the same period of 5 working days by any other person having an ownership or proprietary interest in such shell eggs. The appellant of an order shall state the ownership or proprietary interest the appellant has in the shell eggs.

(B) *Summary decision.* A request for a hearing may be denied, in whole or in part and at any time after a request for a hearing has been submitted, if the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director determines that no genuine and substantial issue of fact has been raised by the material

submitted in connection with the hearing or from matters officially noticed. If the presiding FDA official determines that a hearing is not justified, written notice of the determination will be given to the parties explaining the reason for denial.

(C) *Informal hearing.* Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The informal hearing shall be conducted by an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director, and a written summary of the proceedings shall be prepared by the presiding FDA official.

* * * * *

(F) *No appeal.* If there is no appeal of the order and the person in possession of the shell eggs that are subject to the order fails to relabel, divert, or destroy them within 10 working days, or if the demand is affirmed by the presiding FDA official after an appeal and the person in possession of such eggs fails to relabel, divert, or destroy them within 10 working days, the FDA division office, or, if applicable, the State or local agency may designate an officer or employee to divert or destroy such eggs. It shall be unlawful to prevent or to attempt to prevent such diversion or destruction of the shell eggs by the designated officer or employee.

* * * * *

PART 112—STANDARDS FOR THE GROWING, HARVESTING, PACKING, AND HOLDING OF PRODUCE FOR HUMAN CONSUMPTION

■ 11. The authority citation for part 112 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 342, 350h, 371; 42 U.S.C. 243, 264, 271.

■ 12. Amend § 112.202 by revising paragraph (a) to read as follows:

§ 112.202 What procedure will FDA use to withdraw an exemption?

(a) An FDA Division Director in whose division the farm is located (or, in the case of a foreign farm, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition), or an FDA official senior to either such Director, must approve an order to withdraw the exemption before the order is issued.

* * * * *

■ 13. Amend § 112.203 by revising paragraph (h) to read as follows:

§ 112.203 What information must FDA include in an order to withdraw a qualified exemption?

* * * * *

(h) The mailing address, telephone number, email address, fax number, and name of the FDA Division Director in whose division the farm is located (or for foreign farms, the same information for the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition); and

* * * * *

■ 14. Amend § 112.206 by revising paragraph (a)(1) to read as follows:

§ 112.206 What is the procedure for submitting an appeal?

(a) * * *

(1) Submit the appeal in writing to the FDA Division Director in whose division the farm is located (or in the case of a foreign farm, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition), at the mailing address, email address, or fax number identified in the order within 15 calendar days of the date of receipt of the order; and

* * * * *

■ 15. Amend § 112.208 by revising paragraph (c)(2) to read as follows:

§ 112.208 What requirements are applicable to an informal hearing?

* * * * *

(c) * * *

(2) A request for a hearing under this subpart must be addressed to the FDA Division Director (or, in the case of a foreign farm, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition) as provided in the order withdrawing an exemption.

* * * * *

■ 16. Revise § 112.209 to read as follows:

§ 112.209 Who is the presiding officer for an appeal and for an informal hearing?

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director.

■ 17. Amend § 112.213 by revising paragraphs (a) and (b)(1) to read as follows:

§ 112.213 If my qualified exemption is withdrawn, under what circumstances would FDA reinstate my qualified exemption?

(a) If the FDA Division Director in whose division your farm is located (or, in the case of a foreign farm, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition) determines that the farm has adequately resolved any problems with the conduct and conditions that are material to the safety of the food produced or harvested at such farm, and that continued withdrawal of the exemption is not necessary to protect the public health or prevent or mitigate a foodborne illness outbreak, the FDA Division Director in whose division your farm is located (or, in the case of a foreign farm, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition) will, on his or her own initiative or at the request of a farm, reinstate the qualified exemption.

(b) * * *

(1) Submit a request, in writing, to the FDA Division Director in whose division your farm is located (or, in the case of a foreign farm, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition); and

* * * * *

PART 115—SHELL EGGS

■ 18. The authority citation for part 115 continues to read as follows:

Authority: 21 U.S.C. 342, 371; 42 U.S.C. 243, 264, 271.

■ 19. Amend § 115.50 by revising paragraphs (e)(1)(i) and (iii), (e)(1)(v) introductory text, (e)(2)(i) through (iii) introductory text, and (e)(2)(vi) to read as follows:

§ 115.50 Refrigeration of shell eggs held for retail distribution.

* * * * *

(e) * * *

(1) * * *

(i) *Order for diversion or destruction.* Any division office of FDA or any State or local agency acting under paragraph (d) of this section, upon finding shell eggs held in violation of this section, may serve upon the person in whose possession such eggs are found a written order that such eggs be diverted, under the supervision of an officer or employee of the issuing entity, for processing in accordance with the EPIA (21 U.S.C. 1031 *et seq.*) or destroyed by or under the supervision of said division office, within 10 working days from the date of receipt of the order.

* * * * *

(iii) *Approval of Division Director.* An order, before issuance, shall be approved by the FDA Division Director in whose division the shell eggs are located. If prior written approval is not feasible, prior oral approval shall be obtained and confirmed by written memorandum as soon as possible.

* * * * *

(v) *Sale or other disposition of shell eggs under order.* After service of the order, the person in possession of the

shell eggs that are the subject of the order shall not sell, distribute, or otherwise dispose of or move any eggs subject to the order unless and until the notice is withdrawn after an appeal except, after notifying FDA's division office or, if applicable, the State or local agency in writing, to:

* * * * *

(2) * * *

(i) *Appeal of a detention order.* Any appeal shall be submitted in writing to FDA's Division Director in whose division the shell eggs are located within 5 working days of the issuance of the order. If the appeal includes a request for an informal hearing, the hearing shall be held within 5 working days after the appeal is filed or, if requested by the appellant, at a later date, which shall not be later than 20 calendar days after the issuance of the order. The order may also be appealed within the same period of 5 working days by any other person having an ownership or proprietary interest in such shell eggs. The appellant of an order shall state the ownership or proprietary interest the appellant has in the shell eggs.

(ii) *Summary decision.* A request for a hearing may be denied, in whole or in part and at any time after a request for a hearing has been submitted, if the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director determines that no genuine and substantial issue of fact has been raised by the material submitted in connection with the hearing or from matters officially noticed. If the presiding FDA official determines that a hearing is not justified, written notice of the determination will be given to the parties explaining the reason for denial.

(iii) *Informal hearing.* Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The informal hearing shall be conducted by the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director, and a written summary of the proceedings shall be prepared by the presiding FDA official.

* * * * *

(vi) *No appeal.* If there is no appeal of the order and the person in possession of the shell eggs that are subject to the order fails to divert or destroy them within 10 working days, or if the demand is affirmed by the presiding FDA official after an appeal and the person in possession of such eggs fails to divert or destroy them within 10 working days, FDA's division office or appropriate State or local agency may designate an officer or employee to divert or destroy such eggs. It shall be unlawful to prevent or to attempt to prevent such diversion or destruction of the shell eggs by the designated officer or employee.

* * * * *

PART 117—CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK-BASED PREVENTIVE CONTROLS FOR HUMAN FOOD

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

Authority: 21 U.S.C. 331, 342, 343, 350d note, 350g, 350g note, 371, 374; 42 U.S.C. 243, 264, 271.

■ 21. Amend § 117.254 by revising paragraph (a) to read as follows:

§ 117.254 Issuance of an order to withdraw a qualified facility exemption.

(a) An FDA Division Director in whose division the qualified facility is located (or, in the case of a foreign facility, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition), or an FDA official senior to either such Director, must approve an order to withdraw the exemption before the order is issued.

* * * * *

■ 22. Amend § 117.257 by revising paragraph (h) to read as follows:

§ 117.257 Contents of an order to withdraw a qualified facility exemption.

* * * * *

(h) The mailing address, telephone number, email address, fax number, and name of the FDA Division Director in whose division the facility is located (or, in the case of a foreign facility, the same information for the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition); and

* * * * *

■ 23. Amend § 117.264 by revising paragraph (a)(1) to read as follows:

§ 117.264 Procedure for submitting an appeal.

(a) * * *

(1) Submit the appeal in writing to the FDA Division Director in whose division the facility is located (or, in the case of a foreign facility, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition), at the mailing address, email address, or fax number identified in the order within 15 calendar days of the date of receipt of confirmation of the order; and

* * * * *

■ 24. Amend § 117.270 by revising paragraph (c)(2) to read as follows:

§ 117.270 Requirements applicable to an informal hearing.

* * * * *

(c) * * *

(2) A request for a hearing under this subpart must be addressed to the FDA Division Director (or, in the case of a foreign facility, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition) as provided in the order withdrawing an exemption.

* * * * *

■ 25. Revise § 117.274 to read as follows:

§ 117.274 Presiding officer for an appeal and for an informal hearing.

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director.

■ 26. Amend § 117.287 by revising paragraphs (a) and (b)(1) to read as follows:

§ 117.287 Reinstatement of a qualified facility exemption that was withdrawn.

(a) If the FDA Division Director in whose division your facility is located (or, in the case of a foreign facility, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition) determines that a facility has adequately resolved any problems with the conditions and conduct that are material to the safety of the food manufactured, processed, packed, or held at the facility and that continued withdrawal of the exemption is not necessary to protect public health and prevent or mitigate a foodborne illness outbreak, the FDA Division Director in whose division your facility is located (or, in the case of a foreign facility, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition) will, on his or her own initiative or on the request of a facility, reinstate the exemption.

(b) * * *

(1) Submit a request, in writing, to the FDA Division Director in whose division your facility is located (or, in the case of a foreign facility, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition); and

* * * * *

PART 118—PRODUCTION, STORAGE, AND TRANSPORTATION OF SHELL EGGS

■ 27. The authority citation for part 118 continues to read as follows:

Authority: 21 U.S.C. 321, 331–334, 342, 371, 381, 393; 42 U.S.C. 243, 264, 271.

■ 28. Amend § 118.12 by revising:

■ a. Paragraph (a)(1)(i) introductory text;

■ b. Paragraphs (a)(1)(ii) and (iv) introductory text; and

■ c. Paragraphs (a)(2)(i) through (iii) introductory text and (vi).

The revisions read as follows:

§ 118.12 Enforcement and compliance.

(a) * * *

(1) * * *

(i) *Order for diversion or destruction under the PHS Act.* Any division office of FDA or any State or locality acting under paragraph (c) of this section, upon finding shell eggs that have been produced or held in violation of this part, may serve a written order upon the person in whose possession the eggs are found requiring that the eggs be diverted, under the supervision of an officer or employee of the issuing entity, for processing in accordance with the EPIA (21 U.S.C. 1031 *et seq.*) or by a treatment that achieves at least a 5-log destruction of SE or destroyed by or under the supervision of the issuing entity, within 10 working days from the date of receipt of the order, unless, under paragraph (a)(2)(iii) of this section, a hearing is held, in which case the eggs must be diverted or destroyed consistent with the decision of the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director under paragraph (a)(2)(v) of this section. The order must include the following information:

* * * * *

(ii) *Approval of Division Director.* An order, before issuance, must be approved by FDA's Division Director. If prior written approval is not feasible, prior oral approval must be obtained and confirmed by written memorandum as soon as possible.

* * * * *

(iv) *Sale or other disposition of shell eggs under order.* After service of the order, the person in possession of the shell eggs that are the subject of the order must not sell, distribute, or otherwise dispose of or move any eggs subject to the order unless and until receiving a notice that the order is withdrawn after an appeal except, after notifying FDA's division office or, if applicable, the State or local representative, in writing, to:

* * * * *

(2) * * *

(i) *Appeal of a detention order.* Any appeal must be submitted in writing to FDA's Division Director in whose division the shell eggs are located within 5 working days of the issuance of the order. If the appeal includes a request for an informal hearing, the hearing must be held within 5 working days after the appeal is filed or, if requested by the appellant, at a later date, which must not be later than 20 calendar days after the issuance of the order. The order may also be appealed within the same period of 5 working days by any other person having an ownership or proprietary interest in such shell eggs. The appellant of an order must state the ownership or proprietary interest the appellant has in the shell eggs.

(ii) *Summary decision.* A request for a hearing may be denied, in whole or in part and at any time after a request for a hearing has been submitted, if the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director determines that no genuine and substantial issue of fact has been raised by the material submitted in connection with the hearing or from matters officially noticed. If the presiding FDA official determines that a hearing is not justified, written notice of the determination will be given to the parties explaining the reason for denial.

(iii) *Informal hearing.* Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The informal hearing must be conducted by the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director, and a written summary of the proceedings must be prepared by the presiding FDA official.

* * * * *

(vi) *No appeal.* If there is no appeal of the order and the person in possession of the shell eggs that are subject to the order fails to divert or destroy them within 10 working days, or if the demand is affirmed by the presiding FDA official after an appeal and the person in possession of such eggs fails to divert or destroy them within 10 working days, FDA's division office or, if applicable, the State or local representative may designate an officer or employee to divert or destroy such eggs. It shall be unlawful to prevent or to attempt to prevent such diversion or destruction of the shell eggs by the designated officer or employee.

* * * * *

PART 507—CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK-BASED PREVENTIVE CONTROLS FOR FOOD FOR ANIMALS

■ 29. The authority citation for part 507 continues to read as follows:

Authority: 21 U.S.C. 331, 342, 343, 350d note, 350g, 350g note, 371, 374; 42 U.S.C. 243, 264, 271.

■ 30. Amend § 507.62 by revising paragraph (a) to read as follows:

§ 507.62 Issuance of an order to withdraw a qualified facility exemption.

(a) An FDA Division Director in whose division the qualified facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine), or an FDA official senior to either such Director, must approve an order to withdraw the exemption before the order is issued.

* * * * *

■ 31. Amend § 507.65 by revising paragraph (h) to read as follows:

§ 507.65 Contents of an order to withdraw a qualified facility exemption.

* * * * *

(h) The mailing address, telephone number, email address, fax number, and name of the FDA Division Director in whose division the facility is located (or, in the case of a foreign facility, the same information for the Director of the Division of Compliance in the Center for Veterinary Medicine); and

* * * * *

■ 32. Amend § 507.69 by revising paragraph (a)(1) to read as follows:

§ 507.69 Procedure for submitting an appeal.

(a) * * *

(1) Submit the appeal in writing to the FDA Division Director in whose division the facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine), at the mailing address, email address, or fax number identified in the order within 15 calendar days of the date of receipt of confirmation of the order; and

* * * * *

■ 33. Amend § 507.73 by revising paragraph (c)(2) to read as follows:

§ 507.73 Requirements applicable to an informal hearing.

* * * * *

(c) * * *

(2) A request for a hearing under this subpart must be addressed to the FDA Division Director (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine) as provided in the order withdrawing an exemption.

* * * * *

■ 34. Revise § 507.75 to read as follows:

§ 507.75 Presiding officer for an appeal and for an informal hearing.

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director.

■ 35. Amend § 507.85 by revising paragraphs (a) and (b)(1) to read as follows:

§ 507.85 Reinstatement of a qualified facility exemption that was withdrawn.

(a) If the FDA Division Director in whose division your facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine) determines that a facility has adequately resolved any problems with the conditions and conduct that are material to the safety of the animal food manufactured, processed, packed, or held at the facility and that continued withdrawal of the exemption is not necessary to protect public (human and animal) health and prevent or mitigate a foodborne illness outbreak, the FDA Division Director in whose division your facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine) will, on his or her own initiative or on the request of a facility, reinstate the exemption.

(b) * * *

(1) Submit a request, in writing, to the FDA Division Director in whose division your facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine); and

* * * * *

PART 800—GENERAL

■ 36. The authority citation for part 800 continues to read as follows:

Authority: 5 U.S.C. 551–559; 21 U.S.C. 301–399f.

■ 37. Amend § 800.55 by:

■ a. Revising the first sentence of paragraph (c), paragraph (d)(3)(xi), the first sentence of paragraph (e), the second sentence of paragraph (g)(1), and paragraphs (g)(3)(ii) and (iv) and (g)(4);

■ b. Adding a heading for paragraph (h); and

■ c. Revising paragraphs (h)(1), (2), and (3) introductory text, (h)(3)(iv), and (h)(4).

The revisions and addition read as follows:

§ 800.55 Administrative detention.

* * * * *

(c) * * * The detention is to be for a reasonable period that may not exceed 20 calendar days after the detention order is issued, unless the FDA Division Director in whose division the devices are located determines that a greater period is required to seize the devices, to institute injunction proceedings, or to evaluate the need for legal action, in which case the Division Director may authorize detention for 10 additional calendar days. * * *

(d) * * *

(3) * * *

(xi) The mailing address, telephone number, and name of the FDA Division Director.

(e) * * * A detention order, before issuance, shall be approved by the FDA Division Director in whose division the devices are located. * * *

(g) * * *

(1) * * * Any appeal shall be submitted in writing to the FDA Division Director in whose division the devices are located within 5 working days of receipt of a detention order.

(3) * * *

(ii) A request for a hearing under this section should be addressed to the FDA Division Director.

* * * * *

(iv) Paragraph (g)(4) of this section, rather than § 16.42(a) of this chapter, describes the FDA employees who preside at hearings under this section.

(4) The presiding officer of a regulatory hearing on an appeal of a detention order, who also shall decide the appeal, shall be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director who is permitted by § 16.42(a) of this chapter to preside over the hearing.

* * * * *

(h) *Movement of detained devices.* (1) Except as provided in this paragraph (h), no person shall move detained devices within or from the place where they have been ordered detained until FDA terminates the detention under paragraph (j) of this section or the detention period expires, whichever occurs first.

(2) If detained devices are not in final form for shipment, the manufacturer may move them within the establishment where they are detained to complete the work needed to put them in final form. As soon as the devices are moved for the purpose of the preceding sentence, the individual responsible for their movement shall orally notify the FDA representative who issued the detention order, or another responsible division office official, of the movement of the devices. As soon as the devices are put in final form, they shall be segregated from other devices, and the individual responsible for their movement shall orally notify the FDA representative who issued the detention order, or another responsible division office official, of their new location. The devices put in final form shall not be moved further without FDA approval.

(3) The FDA representative who issued the detention order, or another responsible division office official, may approve, in writing, the movement of detained devices for any of the following purposes:

* * * * *

(iv) For any other purpose that the FDA representative who issued the detention order, or other responsible division office official, believes is appropriate in the case.

(4) If an FDA representative approves the movement of detained devices under paragraph (h)(3) of this section, the detained devices shall remain segregated from other devices and the person responsible for their movement shall immediately orally notify the official who approved the movement of the devices, or another responsible FDA division office official, of the new location of the detained devices.

* * * * *

Dated: March 9, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–05213 Filed 3–23–20; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0432; FRL–10005–66–Region 9]

Air Plan Approval; California; Santa Barbara County Air Pollution Control District; Stationary Source Permits and Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Santa Barbara

County Air Pollution Control District's (SBAPCD or ''the District'') portion of the California State Implementation Plan (SIP). These revisions concern the District's New Source Review (NSR) permitting program for new and modified sources of air pollution under section 110(a)(2)(C) of the Clean Air Act (CAA). This action updates the SBAPCD's applicable SIP with current permitting rules.

DATES: These rules are effective on April 23, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0432. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Eugene Chen, EPA Region IX, 75 Hawthorne Street (AIR–3–2), San Francisco, CA 94105. (415) 947–4304, *chen.eugene@epa.gov.*

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

Table of Contents

I. Proposed Action

On October 24, 2019 (84 FR 56961), the EPA proposed to approve the following rules into the California SIP.

TABLE 1—SUBMITTED RULES

Rule No.	Rule title	Adopted/ amended date	Submitted date
102	Definitions	8/25/2016	10/18/2016
105	Applicability	8/25/2016	10/18/2016
202	Exemptions to Rule 201	8/25/2016	10/18/2016
204	Applications	8/25/2016	10/18/2016
205	Standards for Granting Permits	4/17/1997	3/10/1998
809	Federal Minor Source New Source Review	8/25/2016	10/18/2016

Collectively, these submitted rules establish the NSR requirements for minor stationary sources under the SBAPCD's jurisdiction in California. We proposed to approve these rules because we determined they complied with the relevant CAA requirements. Our proposed action contains more information on the submitted rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. We received two comments during this public comment period. Both comments were supportive of the proposed action, and expressed support for further measures to protect air and water quality. The EPA acknowledges the comments and the support expressed by the commenters.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving these rules into the California SIP as proposed.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Santa Barbara County Air Pollution Control District rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would

be inconsistent with the Clean Air Act; and

• Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 26, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental Protection, Incorporation by reference, Intergovernmental relations, Lead, New source review, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: January 24, 2020.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(51)(xiii)(H) and (I), (c)(186)(i)(E)(*2*), (c)(254)(i)(C)(*8*) and (*9*), (c)(423)(i)(E)(*6*), and (c)(533) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(51) * * *

(xiii) * * *

(H) Previously approved on May 5, 1982, in paragraph (c)(51)(xiii)(A) of this section and now deleted with replacement in paragraph (c)(533)(i)(A)(*3*) of this section, Rule 202, ''Exemptions to Rule 201,'' revision adopted on August 25, 2016.

(I) Previously approved on May 5, 1982, in paragraph (c)(51)(xiii)(A) of this section and now deleted with replacement in paragraph (c)(254)(i)(C)(*8*) of this section, Rule 205, ''Standards for Granting Permits,'' revision adopted April 17, 1997.

* * * * *

(186) * * *

(i) * * *

(E) * * *

(*2*) Previously approved on June 3, 1999, in paragraph (c)(186)(i)(E)(*1*) of this section and now deleted with replacement in paragraph (c)(533)(i)(A)(*2*) of this section, Rule 105, ''Applicability,'' revision adopted on August 25, 2016.

* * * * *

(254) * * *

(i) * * *

(C) * * *

(*8*) Rule 205, ''Standards for Granting Permits,'' revision adopted April 17, 1997.

(*9*) Previously approved on February 9, 2016, in paragraph (c)(254)(i)(C)(*7*) of this section and now deleted with replacement in paragraph (c)(533)(i)(A)(*4*) of this section, Rule 204, ''Applications,'' revision adopted on August 25, 2016

* * * * *

(423) * * *

(i) * * *

(E) * * *

(*6*) Previously approved on April 11, 2013, in paragraph (c)(423)(i)(E)(*1*) of this section and now deleted with replacement in paragraph (c)(533)(i)(A)(*1*) of this section, Rule 102, ''Definitions,'' revision adopted on August 25, 2016.

* * * * *

(533) New or amended regulations for the following APCD was submitted on October 18, 2016 by the Governor's designee.

(i) *Incorporation by reference.* (A) Santa Barbara County Air Pollution Control District.

(*1*) Rule 102, ''Definitions,'' revision adopted on August 25, 2016.

(*2*) Rule 105, ''Applicability,'' revision adopted on August 25, 2016.

(*3*) Rule 202, ''Exemptions to Rule 201,'' revision adopted on August 25, 2016.

(*4*) Rule 204, ''Applications,'' revision adopted on August 25, 2016.

(*5*) Rule 809, ''Federal Minor Source New Source Review,'' revision adopted on August 25, 2016.

(B) [Reserved]

(ii) [Reserved]

[FR Doc. 2020–05196 Filed 3–23–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R01–OAR–2020–0083; FRL–10006–58–Region 1]

Approval and Promulgation of State Plan (Negative Declaration) for Designated Facilities and Pollutants: Vermont

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking a direct final action to approve a negative declaration submitted to satisfy the requirements of the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills for the State of Vermont. The negative declaration certifies that there are no existing facilities in the State of Vermont that must comply with this rule.

DATES: This direct final rule will be effective May 26, 2020 without further notice, unless the EPA receives adverse comments by April 23, 2020. If the EPA receives adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register**

informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2020–0083 at *https://www.regulations.gov,* or via email to *kilpatrick.jessica@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comments received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the ''For Further Information Contact'' section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jessica Kilpatrick, Air Permits, Toxics, & Indoor Programs Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: 05–2, Boston, MA 02109–0287. Telephone: 617–918–1652. Fax: 617–918–0652. Email: *kilpatrick.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

Section 111(d) of the CAA establishes standards of performance for existing sources, specifically pertaining to the remaining useful life of a source. Air pollutants included under this section are those which have not already been established as air quality criteria pollutants via 42 U.S.C. 7408(a) or hazardous air pollutants via 42 U.S.C. 7412. Section 111(d)(1) requires states to submit to the EPA for approval a plan that establishes standards of performance. The plan must provide that the state will implement and enforce the standards of performance. A federal plan is prescribed if a state does not submit a state-specific plan or the submitted plan is disapproved. If a state has no designated facilities for a standards of performance source category, it may submit a negative declaration in lieu of a state plan for that source category according to 40 CFR 60.23a(b) and 62.06.

II. Municipal Solid Waste Landfill Regulations

A municipal solid waste (MSW) landfill is defined in 40 CFR 60.41f as, ''an entire disposal facility in a contiguous geographical space where household waste is placed in or on land.'' Other substances may be placed in the landfill which are regulated under RCRA Subtitle D, 40 CFR 257.2. MSW landfills emit gases generated by the decomposition of organic compounds or evolution of new organic compounds from the deposited waste. The EPA regulations specifically delineate measures to control methane and nonmethane organic compound (NMOC) emissions, which can adversely impact public health.

Standards of Performance for *new* MSW landfills, as codified at 40 CFR part 60 subpart XXX (subpart XXX), set standards for air emissions, operating standards for collection and control systems, test methods and procedures, compliance provisions, monitoring of operations, reporting requirements, recordkeeping requirements, and specifications for active collection systems. Subpart XXX applies to facilities that commenced construction, reconstruction, or modification *after* July 17, 2014. The Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, as codified at 40 CFR part 60 subpart Cf (subpart Cf, or Emission Guidelines) apply to states with MSW landfills that accepted waste after November 8, 1987 and commenced construction, reconstruction, or modification *before* July 17, 2014. Such landfills are considered to be ''existing'' landfills. In states with facilities meeting the applicability criteria of an existing MSW landfill, the Administrator of an air quality program must submit a state plan to the EPA that implements the Emission Guidelines.

The Vermont Department of Environmental Conservation (VT DEC) has determined that there is only one MSW landfill (a ''new'' landfill) in the State subject to federal Clean Air Act landfill regulations pursuant to part 60 subpart XXX. The landfill, New England Waste Services of Vermont, Inc. of Coventry, Vermont, commenced construction on an expansion to its design capacity on August 19, 2019, and is thus currently regulated under Subpart XXX. Therefore, the VT DEC submitted a negative declaration to EPA on September 10, 2019 pursuant to the requirements at 40 CFR 60.23a(b) and 62.06, certifying that there are no existing source MSW landfills in the State of Vermont subject to the requirements of 40 CFR part 60 subpart Cf.

III. Final Action

The EPA is approving the Vermont negative declaration. This negative declaration satisfies the requirements of 40 CFR 60.23a(b) and 62.06, serving in lieu of a CAA 111(d) state plan for existing source MSW landfills.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the negative declaration should relevant adverse comments be filed. This rule will be effective May 26, 2020 without further notice unless the Agency receives relevant adverse comments by April 23, 2020.

If the EPA receives such comments, we will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 26, 2020 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comments on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of adverse comments.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a 111(d) plan submission that complies with the provisions of the CAA and applicable Federal regulations (40 CFR 62.04). Thus, in reviewing 111(d) plan 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 regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 26, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this issue of the **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address comment(s) in the final rulemaking.

List of Subjects in 40 CFR Part 62

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

Dated: March 18, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

Part 62 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLAN FOR DESIGNATED FACILITIES AND POLLUTANTS

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

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

Subpart UU—Vermont

■ 2. Revise § 62.11485 to read as follows:

§ 62.11485 Identification of Plan—negative declaration.

On September 10, 2019 the State of Vermont Department of Environmental Conservation submitted a letter certifying no Municipal Solid Waste Landfills subject to 40 CFR part 60 Subpart Cf operate within the State's jurisdiction.

[FR Doc. 2020–06171 Filed 3–23–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 71

[Docket No. CDC–2020–0033]

RIN 0920–AA76

Control of Communicable Diseases; Foreign Quarantine: Suspension of Introduction of Persons Into United States From Designated Foreign Countries or Places for Public Health Purposes

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Interim final rule with request for comments.

SUMMARY: The Centers for Disease Control and Prevention (CDC) within the U.S. Department of Health and Human Services (HHS) issues this interim final rule with request for comments to amend its Foreign Quarantine Regulations. This interim final rule provides a procedure for CDC to suspend the introduction of persons from designated countries or places, if required, in the interest of public health.

DATES:

Effective date: This interim final rule is effective on 11:59 p.m. EDT on March 20th, 2020.

Comment date: Written comments are invited and must be submitted on or before 30 days from the date of publication of this interim final rule in the **Federal Register**.

Expiration date: Unless extended after consideration of submitted comments, this interim final rule will cease to be in effect on the earlier of (1) one year from the publication of this interim final rule, or (2) when the HHS Secretary determines there is no longer a need for this interim final rule. The Secretary will publish a document in the **Federal Register** announcing the expiration date.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0033, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

Any comment that is submitted will be shared with the Department of Homeland Security and the Department of State, and will also be made available to the public. Comments must be identified by RIN 0920–AA76. Because of staff and resource limitations, all comments must be submitted electronically to *www.regulations.gov.* Follow the ''Submit a comment'' instructions.

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 may be posted on the internet and can be retrieved by most internet search engines. No deletions, modifications, or redactions will be made to comments received.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including personally identifiable or confidential business information that is included in a comment.

FOR FURTHER INFORMATION CONTACT: Kyle McGowan, Office of the Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–10, Atlanta, GA 30329. Telephone: 404–498–7000; email: *cdcregulations@cdc.gov.*

SUPPLEMENTARY INFORMATION: The IFR is organized as follows:

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I. Background

The Centers for Disease Control and Prevention (CDC), a component of the U.S. Department of Health and Human Services (HHS), is amending the regulations that implement section 362 of the Public Health Service (PHS) Act, 42 U.S.C. 265, as part of its response to Coronavirus Disease 2019 (COVID–19). Section 362 provides that if the Secretary [1] ''determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health,'' he has the authority, in accordance with regulations approved by the President,[2] ''to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.'' PHS Act 362, 42 U.S.C. 265. Pursuant to a delegation of the Secretary's authority, the CDC Director has promulgated regulations under section 362 to suspend the introduction of property into the United States. Current regulations, however, only address suspension of the introduction of property into the United States and the procedures to quarantine or isolate persons. That is, current regulations permit CDC to quarantine or isolate persons entering the United States, but they do not address the suspension of the introduction of persons into the United States under section 362.

CDC's experience with COVID–19 is that, under some circumstances, quarantine or isolation is not a viable solution for protecting the public health from the introduction of a communicable disease from another country. For example, the arrival in U.S. ports of cruise ships with numerous passengers requiring quarantine or isolation has presented complex logistical challenges, consumed disproportionate agency resources, and taken CDC personnel away from other critical parts of the domestic and international response to COVID–19. To continue to respond promptly and effectively to the public health emergency presented by COVID–19, CDC needs a more efficient regulatory mechanism to exercise its section 362 authority and suspend the introduction of persons who would otherwise pose a serious danger of introduction of COVID–19 into the United States.

Even though COVID–19 is present in certain locations within the United States, the suspension of the introduction of persons into the United States may be required in the interest of public health to avert the danger of further introduction of the disease into the same or other locations in the United States. For example, hypothetically, the introduction of COVID–19 into the United States would occur if two infected persons disembarked in a large metropolitan city in the Midwest from an international flight. Another vector for further introduction of COVID–19 into the United States would be a group of two infected persons who entered that Midwestern state by land after crossing the border from Canada. Suspension of the introduction of those two persons into the United States at the land border would mitigate the serious and increased danger of further introduction of COVID–19 in the United States. The same public health analysis would apply if two infected persons walked across the land border from Canada into a Northeastern State.

Past Experience With Migration and Communicable Disease

International travel and migration play a significant role in the global transmission of infectious biological agents or their toxic products that pose risks for vulnerable populations.[3] Travelers can serve as unwitting vectors of disease, and thereby increase the risk of communicable disease transmission and of the introduction of communicable disease into the United States. The risk increases when travelers are in congregate settings, such as

[1] The statute assigns this authority to the Surgeon General of the Public Health Service. However, Reorganization Plan No. 3 of 1966 abolished the Office of the Surgeon General and transferred all statutory powers and functions of the Surgeon General and other officers of the Public Health Service and of all agencies of or in the Public Health Service to the Secretary of Health, Education, and Welfare, now the Secretary of Health and Human Services, 31 FR 8855, 80 Stat. 1610 (June 25, 1966), *see also* Public Law 96–88, 509(b), 93 Stat. 695 (codified at 20 U.S.C. 3508(b)). References in the PHS Act to the Surgeon General are to be read in light of the transfer of statutory functions and re-designation. Although the Office of the Surgeon General was re-established in 1987, the Secretary of HHS has retained the authorities previously held by the Surgeon General.

[2] Executive Order 13295 assigned the functions of the President under section 362 to the Secretary of HHS.

[3] *See, e.g.,* Institute of Medicine (US) Forum on Microbial Threats, ''Infectious Disease Movement in a Borderless World: Workshop Summary,'' National Academies Press (US); 2010, *available at https://www.ncbi.nlm.nih.gov/books/NBK45728/* (hereinafter ''Infectious Disease Movement in a Borderless World''); Wilson, ME. Travel and the Emergence of Infectious Diseases. *Emerging Infectious Diseases.* 1995;1(2):39–46. doi:10.3201/eid0102.950201; Tatem, A.J., Rogers, D.J. & Hay, S. Global Transport Networks and Infectious Disease Spread. *Adv. Parasitology* 62, 293–343 (2006).

carriers (*i.e.,* ships, aircraft, trains, and road vehicles) or terminals with shared sitting, sleeping, eating, or recreational areas, all of which are conducive to disease transmission.[4]

The speed and far reach of global travel were factors in prior outbreaks that expanded to numerous continents. Examples include: The H1N1 influenza pandemic in 2009; severe acute respiratory syndrome (SARs) coronavirus in 2003; tuberculosis; measles; Middle East Respiratory Syndrome (MERS-CoV) in 2012; and Ebola Virus Disease in 2014 and 2018.[5] All of these high-consequence diseases posed significant public health risks, especially given the compressed timeframes in which the outbreaks occurred.

For example, the Federal response to the H1N1 influenza pandemic in 2009 would have benefitted from the availability of an efficient mechanism for suspending the introduction of persons into the United States. The initial cases of H1N1 occurred in Mexico, before the first confirmed cases in the United States. Retrospective research findings in Mexico indicated that transmission of the virus in Mexico involved person-to-person spread with multiple generations of transmission.[6]

Like 2009 H1N1, COVID–19 is a pandemic. But the new coronavirus is more infectious than 2009 H1N1.[7] Indeed, it appears that the virus may at times be transmitted by persons who are asymptomatic. As discussed below, COVID–19 is also more likely to cause death in high-risk individuals.

In addition, global travel has increased dramatically since prior infectious disease outbreaks. By 2018, international visitations to the U.S. totaled over 20 million more per year than in 2009, when the 2009 H1N1 pandemic occurred, and 10 million more per year than in 2014, when the Ebola Virus Disease outbreak occurred.[8] These differences make the availability of an efficient mechanism for exercising the section 362 authority all the more important to the protection of the public health going forward.

The Current Outbreak of COVID–19

COVID–19 is a communicable disease caused by a novel (new) coronavirus, SARS–CoV–2, that was first identified as the cause of an outbreak of respiratory illness that began in Wuhan, Hubei Province, People's Republic of China (''PRC''). The virus is thought to be transmitted primarily by person-to-person contact through respiratory droplets produced when an infected person coughs or sneezes. It may also be transmitted through contact with surfaces or objects. While much is still unknown about the transmission of COVID–19, asymptomatic transmission may also occur.

Manifestations of severe disease have included severe pneumonia, acute respiratory distress syndrome (ARDS), septic shock, and multi-organ failure. According to the World Health Organization (WHO), as of March 17, 2020, approximately 4.1% of reported COVID–19 cases have resulted in death globally. This mortality rate is higher among seniors or those with compromised immune systems. Older adults and people who have severe chronic medical conditions like hypertension, heart, lung, or kidney disease are also at higher risk for more serious COVID–19 illness. Early data suggest older people are twice as likely to have serious COVID–19 illness.

As of March 17, 2020, there were over 179,100 cases of COVID–19 globally in over 150 locations (including countries), resulting in over 7,425 deaths; more than 4,225 cases have been identified in the United States, with new cases being reported daily and with at least 75 deaths due to the disease. Continued introduction into the United States of persons from foreign countries where COVID–19 exists presents a danger of disease transmission in congregate settings such as carriers or terminals, which may, in turn, result in a danger of disease transmission in contiguous areas.[9]

Unfortunately, at this time, there is no vaccine that can prevent infection with COVID–19, nor are there therapeutics for those who become infected. Treatment is currently limited to supportive (or palliative) care to manage symptoms while the body fights off the disease. Hospitalization may be required in severe cases and mechanical respiratory support may be needed in the most severe cases. The ease of COVID–19 transmission presents a risk of a surge in hospitalizations for COVID–19, which would limit hospital capacity available to treat other serious conditions.

Testing is available to confirm suspected cases of COVID–19 infection. Testing generally requires specimens collected from the nose, throat, or lungs; such specimens can only be analyzed in a laboratory setting. However, commercial test results are typically available within three to four days. Currently, the time required to obtain test results—coupled with the incubation period of the disease—makes it impracticable to confirm whether each person moving into the United States is infected with COVID–19 at the time of the movement. Widespread, compulsory Federal quarantines or isolations of such persons pending test results are impracticable due to the numbers of persons involved, logistical challenges, and CDC resource and personnel constraints.

On January 30, 2020, the Director General of WHO declared that the outbreak of COVID–19 is a Public Health Emergency of International Concern under the International Health Regulations.[10] The following day, the Secretary of HHS declared COVID–19 a public health emergency under the PHS Act.[11] On March 11, 2020, the WHO declared COVID–19 a pandemic. On March 13, 2020, the President issued a

[4] *E.g., https://wwwnc.cdc.gov/travel/yellowbook/2020/travel-by-air-land-sea/cruise-ship-travel* (noting that the ''often crowded, semi-enclosed environments onboard ships can facilitate the spread of person-to-person, foodborne, or waterborne diseases''); CDC, ''Interim US Guidance for Risk Assessment and Public Health Management of Persons with Potential Coronavirus Disease 2019 (COVID–19) Exposures: Geographic Risk and Contacts of Laboratory-confirmed Cases,'' Updated March 7, 2020, *available at https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html.*

[5] Infectious Disease Movement in a Borderless World (noting that ''swine-origin H1N1 has spread globally, its movement hastened by global air travel'' and [i]t is easy to see how travelers could play a key role in the global epidemiology of infections that are transmitted from person to person, such as HIV, SARS, tuberculosis, influenza, and measles'') (citing Hufnagel L, Brockmann D, Geisel T. Forecast and Control of Epidemics in a Globalized World. *Proceedings of the National Academy of Sciences.* 2004;101(42):15124–15129).

[6] *https://www.cdc.gov/h1n1flu/cdcresponse.htm.*

[7] *See generally,* CDC, ''2009 H1N1 Pandemic Timeline,'' *available at https://www.cdc.gov/flu/pandemic-resources/2009-pandemic-timeline.html;* Van Kerkhove, Maria D et al. Estimating age-specific cumulative incidence for the 2009 influenza pandemic: A meta-analysis of A(H1N1)pdm09 serological studies from 19 countries. *Influenza and Other Respiratory Viruses* vol. 7,5 (2013): 872–86, *available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5781221/;* CDC, Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease (COVID–19), *available at https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html.*

[8] *https://travel.trade.gov/outreachpages/download_data_table/Fast_Facts_2018.pdf.*

[9] *See supra* n.4; *see also* CDC, Travelers from Countries with Widespread Sustained (Ongoing) Transmission Arriving in the United States, *available at https://www.cdc.gov/coronavirus/2019-ncov/travelers/after-travel-precautions.html.*

[10] Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019–nCoV) (January 30, 2020), *available at https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov).*

[11] HHS, ''Determination that a Public Health Emergency Exists,'' *available at https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx.*

Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak.[12] As of March 16, 2020, all 50 states and several local and territorial jurisdictions declared states of emergency.

Global efforts to slow disease transmission have included sweeping measures to limit travel and exposure to COVID–19. A number of countries, such as Russia, Australia, the Philippines, Japan, and Israel, have imposed stringent restrictions on travelers who have recently been to the PRC. On March 17, 2020, the European Union approved a plan to ban all nonessential travel into its bloc for a minimum of 30 days. Many countries are asking persons to self-quarantine for 14 days (a period estimated to encompass the incubation period for the disease) following return from foreign countries or places with sustained community transmission.

The President has exercised his authority in section 212(f) of the Immigration and Nationality Act (''INA''), 8 U.S.C. 1182(f), to suspend entry into the United States of certain foreign nationals who have recently visited PRC (excluding the Special Administrative Regions of Hong Kong and Macau), the Islamic Republic of Iran, the Schengen Area (comprised of 26 countries in Europe), the United Kingdom (excluding overseas territories outside of Europe), and the Republic of Ireland, within 14 days preceding their entry or attempted entry into the United States due to concerns of person-to-person transmission of COVID–19. CDC has issued Level 3 Travel Health Notices recommending that travelers avoid all nonessential travel to PRC (excluding the Special Administrative Regions of Hong Kong and Macau), the Islamic Republic of Iran, the Republic of Korea, and the Schengen Area. The U.S. Department of State has issued a Global Level 3 Health Advisory directing U.S. citizens to reconsider all travel abroad due to the global impact of COVID–19 and Level 4 Travel Advisories (Do Not Travel) for PRC (excluding the Special Administrative Regions of Hong Kong and Macau), Iran, and certain regions of Italy. In addition, CDC has recommended that travelers, particularly those with underlying health conditions, avoid all cruise ship travel worldwide. The U.S. Department of State has similarly issued guidance that U.S. citizens should not travel by cruise ship at this time. On March 16, 2020, the Federal government announced guidelines recommending that the public should avoid discretionary travel; discretionary shopping trips; social visits; gatherings in groups of more than 10 people; and eating or drinking at bars, restaurants, and food courts. Numerous States and cities have gone further and shut down restaurants, bars, nightclubs, and theaters. On March 18, 2020, the United States and Canada announced plans to, by mutual consent, close the U.S.-Canadian border to nonessential travel.

The COVID–19 pandemic highlights why CDC needs an efficient regulatory mechanism to suspend the introduction of persons who would otherwise increase the serious danger of the introduction of a communicable disease into the United States. Section 212(f) of the Immigration and Nationality Act (''INA'') applies to the ''entry'' of aliens, but section 362 instead provides the authority to prohibit the ''introduction'' of persons into the United States. Despite the unprecedented global efforts at mitigating or slowing the transmission of COVID–19, cases of COVID–19 have rapidly propagated and multiplied, crossing international borders with ease. As of March 17, 2020, CDC reported that 229 of the confirmed cases of COVID–19 in the United States with an established source of exposure were travel-related as opposed to community transmission, accounting for almost half of the 474 cases with an established source of exposure; another 3,752 cases remain under investigation. As of March 14, 2020, travelers from Japan have exported at least 20 COVID–19 cases to eight countries. As of March 14, 2020, travelers from the Islamic Republic of Iran have exported at least 145 COVID–19 cases to 17 other countries, as reported by the WHO, and travelers from the Schengen Area have exported 624 COVID–19 cases to 70 countries, including to the United States. In the near future, persons traveling from other foreign countries and jurisdictions may compound the serious danger of further introduction of COVID–19 into the United States.

To summarize, CDC knows that COVID–19 infection transmits easily, spreads quickly through global travel, and can have a high mortality rate for some of the most vulnerable members of society. At this time, there is no vaccine, therapeutic, or rapid testing for the disease. CDC needs a robust, efficient mechanism for exercising its authority under section 362 and other applicable authorities to suspend the introduction of persons into the United States, should the public health require it. In issuing orders pursuant to this interim final rule, CDC would coordinate with the Secretary of State in order to ensure compliance with the international legal obligations of the United States and to take due account of U.S. national and security interests.

Other Public Health Risks

Beyond the current COVID–19 pandemic, the suspension authority is also critical to CDC because there is always a risk of another emerging, or re-emerging, communicable disease that may harm the American public. One such risk is pandemic influenza (as opposed to seasonal influenza), which occurs when a novel, or new, influenza virus strain spreads over a wide geographic area and affects an exceptionally high proportion of the population. In such circumstances, the strain of virus is new, there is usually no available vaccine, and humans do not typically have immunity to the virus, often resulting in a more severe illness. The severity and unpredictable nature of an influenza pandemic requires public health systems to prepare constantly for the next occurrence. Whenever a new strain of influenza virus appears, or a major change to a preexisting virus occurs, individuals may have little or no immunity, which can lead to a pandemic when the virus passes easily from human to human and causes serious illness or death. The most recent influenza pandemics include H1N1 in 2009–2010, the 1968–1969 Hong Kong Flu, the 1957–1958 Asian Flu, and the 1918–1919 Spanish Flu.

It is difficult to predict the impact that another emerging, or re-emerging, communicable disease would have on the U.S. public health system. The 2009 H1N1 pandemic caused between 100,000 and 600,000 deaths worldwide,[13] while the 1918–1919 Spanish Flu was estimated to have caused over 50 million deaths worldwide.[14] Although advances in health care quality have greatly improved since 1918, the dramatic increases in global mobility in the 21st century have increased the rate at which a communicable disease can spread. Modern pandemics, spread through international travel, can engulf the world in three months or less. Moreover, pandemics can last from 12

[12] ''Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak,'' March 13, 2020, *available at https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.*

[13] *https://www.cdc.gov/flu/pandemic-resources/2009-h1n1-pandemic.html.*

[14] *https://www.cdc.gov/flu/pandemic-resources/1918-pandemic-h1n1.html.*

to 18 months and are not considered one-time events.

The introduction of another emerging, or re-emerging, communicable disease into the United States is always a risk. The PHS Act section 362 suspension authority would be critical to any effort by CDC and its Federal, State, and local partners to contain or mitigate the risk. CDC expects to mitigate the risk in the future by issuing a Final Rule, after considering comments, to implement a permanent regulatory structure regarding the potential suspension of introduction of persons into the United States in the event a serious danger of the introduction of communicable disease arises in the future.

II. Statutory Authority

The primary legal authority supporting this rulemaking is section 362 of the PHS Act, which is codified at 42 U.S.C. 265. Under section 362, the Secretary [15] has the authority—if he were to determine that the existence of a communicable disease in a foreign country creates a serious danger of the introduction of such disease into the United States, and that this danger is increased by the introduction of persons or property from such country such that suspension of introduction is necessary to protect the public health—to suspend, in accordance with regulations approved by the President,[16] such introduction for determined periods of time.

In addition to section 362, other sections of the PHS Act are relevant to this rulemaking, including section 311, 42 U.S.C. 243; section 361, 42 U.S.C. 264; section 365, 42 U.S.C. 268; and section 367, 42 U.S.C. 270. Section 311 authorizes the Secretary to accept State and local assistance in the enforcement of quarantine rules and regulations and to assist States and their political subdivisions in the control of communicable diseases. Section 361 authorizes the Secretary to make and enforce such regulations that in the Secretary's judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States. It also permits the ''apprehension, detention, or conditional release of individuals'' in order to prevent the ''introduction, transmission, or spread'' of such communicable diseases as may be specified from time to time in Executive Orders of the President upon the recommendation of the Secretary, in consultation with the Surgeon General. Section 365 provides that it shall be the duty of designated customs officers and of Coast Guard officers to aid in the enforcement of quarantine rules and regulations.[17] Section 367 authorizes the application of certain sections of the PHS Act and promulgated regulations (including penalties and forfeitures for violations of such sections and regulations) to air navigation and aircraft to such extent and upon such conditions as deemed necessary for safeguarding public health.[18]

III. Provisions of New § 71.40

This interim final rule will implement section 362 and other applicable provisions of the PHS Act to enable the CDC Director to suspend the introduction of persons into the United States consistent with the statute and applicable law.

Section 71.40(a) sets forth the statutory requirements for the CDC Director to suspend the introduction of persons into the United States. The provision establishes that the CDC Director may prohibit the introduction into the United States of persons from designated foreign countries (or one or more political subdivisions and regions thereof) or places, only for such period of time that the Director deems necessary for the public health, by issuing an order in which the Director determines that:

(1) By reason of the existence of any communicable disease in a foreign country (or one or more political subdivisions or regions thereof) or place, there is serious danger of the introduction of such communicable disease into the United States, and

(2) This danger is so increased by the introduction of persons from such country (or one or more political subdivisions or regions thereof) or place that a suspension of the introduction of such persons into the United States is required in the interest of the public health.

Section 71.40(b) sets forth definitions of several terms used in § 71.40. CDC defines the ''introduction into the United States of persons'' from a foreign country (or one or more political subdivisions or regions thereof) or place'' as the movement of a person from a foreign country (or one or more political subdivisions or regions thereof) or a place, or series of foreign countries or places, into the United States so as to bring the person into contact with others in the United States, or so as to cause the contamination of property in the United States, in a manner that the Director determines to present a risk of transmission of the communicable disease to persons or property, even if the communicable disease has already been introduced, transmitted, or is spreading within the United States.

Section 362 refers to the ''introduction of persons'' from foreign countries. CDC defines ''introduction into the United States of persons'' from a foreign country (including one or more political subdivisions or regions thereof) or place to clarify that ''introduction'' can encompass those who have physically crossed a border of the United States and are in the process of moving into the interior in a manner the Director determines to present a risk of transmission of a communicable disease. This additional mechanism to halt the travel of such persons and rapidly moving them outside the United States constitutes preventing their ''introduction'' into the United States for purposes of § 71.40.

Similarly, Section 362 refers to the ''introduction of [a communicable disease] into the United States.'' CDC defines ''serious danger of the introduction of such communicable disease into the United States'' to mean the potential for introduction of vectors of the communicable disease into the United States, even if persons or property in the United States are already infected or contaminated with the communicable disease. CDC establishes this definition to clarify that, even if persons or property (*e.g.* animals) in the United States are already infected or contaminated with a communicable disease in some localities, the potential for introduction of additional vectors that would introduce, transmit, or spread the disease in the same or different localities can present a serious danger of the introduction of the disease into the United States. Suspension of

[15] *See supra* at n.1.

[16] *See supra* at n.2.

[17] The terms ''officer of the customs'' and ''customs officer'' are defined by statute to mean, ''any officer of the United States Customs Service of the Treasury Department (also hereinafter referred to as the ''Customs Service'') or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person, including foreign law enforcement officers, authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.'' 19 U.S.C. 1401(i). Although this provision refers to the Secretary of the Treasury, the Homeland Security Act transferred to the Secretary of Homeland Security all ''the functions, personnel, assets, and liabilities of . . . the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto . . . [,]'' 6 U.S.C. 203(1), such that reference to the Secretary of the Treasury should be read to reference the Secretary of Homeland Security.

[18] HHS quarantine authorities also apply to vessels. *See, e.g.,* PHS Act 364 (providing for quarantine stations at anchorages and vessel quarantine inspections), 366 (providing for bills of health for vessels, authorizing issuance of regulations applicable to vessels, and certificate of a quarantine officer before a vessel can enter any U.S. port to discharge cargo or land passengers).

the introduction of persons into the United States may be required, in the interest of public health, to avert the increased danger that results from further introduction, transmission, or spread of the disease within the United States.

Finally, for purposes of this section, CDC defines the term ''place'' to include any location specified by the Director, including any carrier, whatever the carrier's nationality. CDC does this in order to remove all doubt that when this interim final rule refers to ''place,'' it refers not just to territory within or outside of a country, but also to carriers, as that term is defined in 42 CFR 71.1, whatever the carrier's nationality.

CDC will establish the requirement to suspend the introduction of persons into the United States from certain designated places for certain periods of time by means of an order executed by the CDC Director. In § 71.40(c), CDC describes the required contents of such order. In any § 71.40 order, the CDC Director must designate:

- The foreign countries (or one or more designated political subdivisions or regions thereof) or places from which the introduction of persons is being suspended.
- The period of time or circumstances under which the introduction of any persons or class of persons into the United States is being suspended.
- The conditions under which that prohibition on introduction should be effective in whole or in part, including any relevant exceptions that the CDC Director determines are appropriate.

CDC might at times rely on (1) State and local authorities who agree to help implement orders issued pursuant to § 71.40, or (2) other Federal agencies to implement and execute the orders issued under this section. Accordingly, in § 71.40(d), CDC establishes that, before issuing any § 71.40 order, CDC may coordinate with the appropriate State and local authorities or other Federal agency (or agencies). If the order will be implemented in whole or in part by State and local authorities under 42 U.S.C. 243(a), the Director's order may explain the procedures and standards by which those State or local authorities are expected to aid in the order's enforcement. Similarly, if the order will be implemented in whole or in part by designated customs officers (including officers of the Department of Homeland Security with U.S. Customs and Border Protection who exercise the authorities of customs officers) or the United States Coast Guard under 42 U.S.C. 268(b), or another Federal department or agency, the CDC Director, in coordination with the Secretary of Homeland Security or the head of the other applicable department or agency, shall explain in the order the procedures and standards by which any authorities or officers or agents are expected to aid in the enforcement of the order, to the extent that they are permitted to do so under their existing legal authorities.

Section 71.40(e) provides that this section does not apply to members of the armed forces of the United States and associated personnel for whom the Secretary of Defense provides assurance to the Director that the Secretary of Defense, through measures such as quarantine, isolation, or other measures maintaining control over such individuals, is preventing the risk of transmission of a communicable disease to persons or property in the United States. CDC includes this exception because the Secretary of Defense has authority and means to prevent the introduction of a communicable disease into the United States from his personnel returning from foreign countries. Therefore, this interim final rule need not apply to Department of Defense personnel.

Although section 362 applies to ''persons,'' this interim final rule will not apply to U.S. citizens or lawful permanent residents. Congress provided CDC with the authority to prohibit the introduction of persons who would increase a serious danger of introducing into the United States a communicable disease, when required in the interest of the public health. CDC believes that, at present, quarantine, isolation, and conditional release, in combination with other authorities, while not perfect solutions, can mitigate any transmission or spread of COVID–19 caused by the introduction of U.S. citizens or lawful permanent residents into the United States. Section 71.40(f) therefore explains that this interim final rule shall not apply to U.S. citizens and lawful permanent residents. Determining the appropriate protections for U.S. citizens and lawful permanent aliens requires a complex balancing of numerous interests and would benefit from additional consideration and public comment. HHS does not want such concerns to delay the issuance of this interim final rule, which would enable the CDC Director to issue orders that would have the effect of slowing the introduction, transmission, and spread of COVID–19 in the United States.

V. Rationale for Issuance of an Interim Final Rule With Immediate Effectiveness

Agency rulemaking is governed by section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). Section 553(b) requires that, unless the rule falls within one of the enumerated exemptions, HHS must publish a notice of proposed rulemaking in the **Federal Register** that provides interested persons an opportunity to submit written data, views, or arguments, prior to finalization of regulatory requirements. Section 553(b)(3)(B) of the APA authorizes a department or agency to dispense with the prior notice and opportunity for public comment requirement when the agency, for ''good cause,'' finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. In addition, because this interim final rule represents a critical part of the dialogue between the United States and the Governments of Mexico and Canada in preventing the spread of COVID–19 along our shared borders, it involves a ''foreign affairs function of the United States.'' 5 U.S.C. 553(a)(1).

As noted above, the United States and numerous other countries have taken unprecedented measures to try to contain or slow the transmission or spread of COVID–19. Such public health actions, especially the actions by the President and the Secretary, have slowed the introduction and transmission of the disease into the United States, which has benefitted the public health, preserved limited public and private resources, and given the U.S. public health system additional time to implement further measures to protect and support the public.

Nevertheless, these measures have not completely stopped global travelers, and other persons crossing from one country into another country, from spreading COVID–19 across national boundaries and around the globe. The introduction of persons from foreign countries with COVID–19 outbreaks is continuing to cause the introduction of COVID–19 into disparate locations within the United States. The suspension authority is therefore critical to slowing the introduction of COVID–19 into such disparate locations within the United States. The United States is in a phase where suspending the introduction of persons from certain countries or places may be required in the interest of the public health, because it could still materially reduce the transmission and spread of COVID–19 in the United States. Because persons can have COVID–19 and be asymptomatic at the time of introduction into the United States, and because the completion of testing for COVID–19 may take three to four days, it is impracticable to confirm who is infected with COVID–19 and who is not infected with COVID–19 as persons move into the United States.

Similarly, Federal quarantines or isolations of all such persons pending test results would be impracticable due to the numbers of persons involved, logistical challenges, and CDC resource and personnel constraints.

In addition, whereas section 212(f) of the INA applies to the ''entry'' of aliens, section 362 applies to the ''introduction'' of persons into the United States. Therefore, although 212(f) has been effective in slowing the transmission or spread of COVID–19 in the United States, section 362 provides CDC with a mechanism tied specifically to persons who increase the danger of introducing COVID–19 into the United States.

Given the national emergency caused by COVID–19, it would be impracticable and contrary to the public health—and, by extension, the public interest—to delay these implementing regulations until a full public notice-and-comment process is completed.

Pursuant to 5 U.S.C. 553(b)(3)(B), and for the reasons stated above, HHS therefore concludes that there is good cause to dispense with prior public notice and the opportunity to comment on this rule before finalizing this rule. For the same reasons, HHS has determined, consistent with section 553(d) of the APA, that there is good cause to make this interim final rule effective immediately upon filing at the Office of the Federal Register.

IV. Request for Comment

HHS requests comment on all aspects of this interim final rule, including its likely costs and benefits and the impacts that it is likely to have on the public health, as compared to the current requirements under 42 CFR part 71.

VI. Regulatory Impact Analysis

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, and public health and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a regulation (1) having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563. CDC, however, is proceeding under the emergency provision at Executive Order 12866 Section 6(a)(3)(D) based on the need to move expeditiously during the current public health emergency to limit the number of new cases of COVID–19.

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the APA or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604. Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. Such analysis must address the consideration of regulatory options that would lessen the economic effect of the rule on small entities. The RFA defines a ''small entity'' as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA); (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. 5 U.S.C. 601(3)–(6). Except for such small government jurisdictions, neither State nor local governments are ''small entities.'' Similarly, for purposes of the RFA, individual persons are not small entities. The requirement to conduct a regulatory impact analysis does not apply if the head of the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). The agency must, however, publish the certification in the **Federal Register** at the time of publication of the rule, ''along with a statement providing the factual basis for such certification.'' *Id.* If the agency head has not waived the requirements for a regulatory flexibility analysis in accordance with the RFA's waiver provision, and no other RFA exception applies, the agency must prepare the regulatory flexibility analysis and publish it in the **Federal Register** at the time of promulgation or, if the rule is promulgated in response to an emergency that makes timely compliance impracticable, within 180 days of publication of the final rule. 5 U.S.C. 604(a), 608(b).[19]

This interim final rule establishes a regulatory mechanism for the exercise of the PHS Act section 362 suspension authority, which directly applies against persons and not State, local, or tribal governments, or the private sector. Accordingly, HHS and CDC believe that this interim final rule would likely impact only persons, and that it would, therefore, not have a significant economic impact on a substantial number of small entities. In addition, for the reasons set forth in this document pertaining to the COVID–19 outbreak, the Secretary finds that this interim final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 impracticable. CDC will assess the potential impacts—including economic effects—of this action on all small entities. Based on that assessment, the Secretary will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) (2 U.S.C. 1532) requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any 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 in 1995 dollars, updated annually for inflation. Currently, that threshold is approximately $154 million. If a

[19] An agency head may delay the completion of the regulatory impact analysis requirements for a period of not more than 180 days after the date of publication in the **Federal Register** of a final rule by publishing in the **Federal Register**, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with such requirements impracticable. If the agency has not prepared a final regulatory analysis within 180 days from the date of publication of the final rule, the RFA provides that the rule shall lapse and have no effect and shall not be re-promulgated until a final regulatory flexibility analysis has been completed by the agency. 5 U.S.C. 608(b).

budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. HHS has determined that this interim final rule is not expected to result in expenditures by State, local, and tribal governments, or by the private sector, of $154 million or more in any one year because it only establishes a regulatory mechanism for the exercise of the PHS Act section 362 suspension authority, which applies against persons and not State, local, or tribal governments, or the private sector. Accordingly, HHS has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

National Environmental Policy Act (NEPA)

HHS has determined that the amendments to 42 CFR part 71 will not have a significant impact on the human environment.

Executive Order 12988: Civil Justice Reform

HHS has reviewed this rule under Executive Order 12988 on Civil Justice Reform and has determined that this interim final rule meets the standard in the Executive Order.

Executive Order 13132: Federalism

This interim final rule has been reviewed under Executive Order 13132, Federalism. Under 42 U.S.C. 264(e), Federal public health regulations do not preempt State or local public health regulations, except in the event of a conflict with the exercise of Federal authority. Other than to restate this statutory provision, this rulemaking does not alter the relationship between the Federal government and State/local governments as set forth in 42 U.S.C. 264. The longstanding provision on preemption in the event of a conflict with Federal authority (42 CFR 70.2) is left unchanged by this rulemaking. Furthermore, there are no provisions in this regulation that impose direct compliance costs on State and local governments. Therefore, HHS believes that the interim final rule does not warrant additional analysis under Executive Order 13132.

Plain Language Act of 2010

Under the Plain Language Act of 2010 (Pub. L. 111–274, October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS/CDC has attempted to use plain language in promulgating this interim final rule, consistent with the Federal Plain Writing Act guidelines.

Congressional Review Act

The Congressional Review Act defines a ''major rule'' as ''any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.'' 5 U.S.C. 804(2). This Office of Information and Regulatory Affairs has determined that this interim final rule is a major rule for purposes of the Congressional Review Act. As this rule is promulgated under the ''good cause'' exemption of the Administrative Procedure Act, there is not a delay in its effective date under the Congressional Review Act.

Assessment of Federal Regulation and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal departments and agencies to determine whether a proposed policy or regulation could affect family well-being. If the determination is affirmative, then the Department or agency must prepare an impact assessment to address criteria specified in the law. HHS has determined that this interim final rule will not have an impact on family well-being, as defined in the Act.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), HHS has reviewed this interim final rule and has determined that there are no new collections of information contained therein.

List of Subjects in 42 CFR Part 71

Apprehension, Communicable diseases, Conditional release, CDC, Ill person, Isolation, Non-invasive, Public health emergency, Public health prevention measures, Qualifying stage, Quarantine, Quarantinable communicable disease.

For the reasons set forth in the preamble, the Department of Health and Human Services, on behalf of the Centers for Disease Control and Prevention, amends 42 CFR part 71 as follows:

PART 71—FOREIGN QUARANTINE

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

Authority: Secs. 215 and 311 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 216, 243); secs. 361–369, PHS Act, as amended (42 U.S.C. 264–272).

■ 2. Add § 71.40 to Subpart D of part 71 to read as follows:

§ 71.40 Prohibiting the introduction of persons from designated foreign countries and places into the United States.

(a) The Director may prohibit the introduction into the United States of persons from designated foreign countries (or one or more political subdivisions and regions thereof) or places, only for such period of time that the Director deems necessary for the public health, by issuing an order in which the Director determines that:

(1) By reason of the existence of any communicable disease in a foreign country (or one or more political subdivisions or regions thereof) or place there is serious danger of the introduction of such communicable disease into the United States; and

(2) This danger is so increased by the introduction of persons from such country (or one or more political subdivisions or regions thereof) or place that a suspension of the introduction of such persons into the United States is required in the interest of the public health.

(b) For purposes of this section:

(1) *Introduction into the United States* of persons from a foreign country (or one or more political subdivisions or regions thereof) or place means the movement of a person from a foreign country (or one or more political subdivisions or regions thereof) or place, or series of foreign countries or places, into the United States so as to bring the person into contact with persons in the United States, or so as to cause the contamination of property in the United States, in a manner that the Director determines to present a risk of transmission of a communicable disease to persons or property, even if the communicable disease has already been introduced, transmitted, or is spreading within the United States;

(2) *Serious danger of the introduction of such communicable disease into the United States* means the potential for introduction of vectors of the

communicable disease into the United States, even if persons or property in the United States are already infected or contaminated with the communicable disease; and

(3) The term ''*Place*'' includes any location specified by the Director, including any carrier, as that term is defined in 42 CFR 71.1, whatever the carrier's nationality.

(c) In any order issued under this section, the Director shall designate the foreign countries (or one or more political subdivisions or regions thereof) or places; the period of time or circumstances under which the introduction of any persons or class of persons into the United States shall be suspended; and the conditions under which that prohibition on introduction, in whole or in part, shall be effective, including any relevant exceptions that the Director determines are appropriate.

(d) Before issuing any order under this section, the Director may coordinate with State and local authorities and other Federal departments or agencies as he deems appropriate in his discretion.

(1) If the order will be implemented in whole or in part by State and local authorities who have agreed to do so under 42 U.S.C. 243(a), then the Director may explain in the order the procedures and standards by which those authorities are expected to aid in the enforcement of the order.

(2) If the order will be implemented in whole or in part by designated customs officers (including officers of the Department of Homeland Security with U.S. Customs and Border Protection, who exercise the authorities of customs officers) or Coast Guard officers under 42 U.S.C. 268(b), or another Federal department or agency, then the Director shall, in coordination with the Secretary of Homeland Security or other applicable Federal department or agency head, explain in the order the procedures and standards by which any authorities or officers or agents are expected to aid in the enforcement of the order, to the extent that they are permitted to do so under their existing legal authorities.

(e) This section does not apply to members of the armed forces of the United States and associated personnel for whom the Secretary of Defense provides assurance to the Director that the Secretary of Defense, through measures such as quarantine, isolation, or other measures maintaining control over such individuals, is preventing the risk of transmission of a communicable disease into the United States.

(f) This section shall not apply to U.S. citizens and lawful permanent residents.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2020–06238 Filed 3–20–20; 4:15 pm]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 71

Order Suspending Introduction of Persons From a Country Where a Communicable Disease Exists

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notification of order.

SUMMARY: This document is to inform the public that the Director of the Centers for Disease Control and Prevention, an agency of the Department of Health and Human Services, has issued an Order suspending the introduction of persons into the United States.

DATES: *Effective date:* The Order referenced in this document is effective on 11:59 p.m. EDT on March 20th, 2020.

FOR FURTHER INFORMATION CONTACT: Kyle McGowan, Office of the Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–10, Atlanta, GA 30329. Telephone: 404–498–7000; email: *cdcregulations@cdc.gov.*

SUPPLEMENTARY INFORMATION: The CDC Director (Director) has issued an Order pursuant to section 362 of the Public Health Service Act, 42 U.S.C. 265. The Order suspends the introduction of certain persons into the United States because the Director has determined that the existence of Coronavirus Disease 2019 (COVID–19) in certain foreign countries creates a serious danger of the introduction of the disease into the United States, and the danger is so increased by the introduction of persons from the foreign countries that a temporary suspension of the introduction of such persons is necessary to protect the public health. The Order is posted on the website for the Centers for Disease Control and Prevention. It will be submitted to the **Federal Register** for publication.

The Order does not apply to U.S. citizens, lawful permanent residents, persons from foreign countries who hold valid travel documents, or persons from foreign countries in the visa waiver program who are not subject to travel restrictions.

The U.S. Department of Homeland Security (DHS) is implementing the Order. The Order also does not apply where a designated customs officer of DHS determines, based on the totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, and public health interests, that the Order should not be applied to a specific person otherwise subject to the order.

Finally, the Order does not apply to members of the armed forces of the United States and associated personnel for whom the Secretary of Defense provides assurance to the Director that the Secretary of Defense, through measures such as quarantine, isolation, or other measures for maintaining control over such individuals, is preventing the risk of transmission of COVID–19 to others in the United States.

Dated: March 20, 2020.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2020–06241 Filed 3–20–20; 4:15 pm]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25, 73, and 76

[MB Docket Nos. 17–317, 17–105; FCC 19–69; FRS 16539]

Carriage Election Notification Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of compliance date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved the information collections associated with the carriage election procedures adopted in the Commission's *2019 CEN Order,* FCC 19–69, and that compliance with the modified rules is now required. This document is consistent with the *2019 CEN Order,* FCC 19–69, which states that the Commission will publish a document in the **Federal Register** announcing a compliance date for the modified rule sections and revise the rule accordingly.

DATES: *Compliance date:* Compliance with 47 CFR 25.701, 73.3526, 73.3527, 76.64, and 76.66(d), published at 84 FR

45659 on August 30, 2019, is required on March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Lyle Elder, Policy Division, Media Bureau, at (202) 418–2120 or *lyle.elder@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that OMB approved the information collection requirements in §§ 25.701, 73.3526, 73.3527, 76.64, and 76.66(d) on February 27, 2020. These rules were modified in the *2019 CEN Order,* FCC 19–69, published at 84 FR 45659 on August 30, 2019. The Commission publishes this document as an announcement of the compliance date of the rules. The other rule amendments adopted in the *2019 CEN Order,* which did not require OMB approval, required compliance as of October 29, 2019.

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW, Washington, DC 20554, regarding OMB Control Numbers 3060–0214, 3060–0844, 3060–0980, and 3060–1065. Please include the applicable OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

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 and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on February 27, 2020, for the information collection requirements contained in the modifications to §§ 25.701, 73.3526, 73.3527, 76.64, and 76.66(d). Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers for the information collection requirements in §§ 25.701, 73.3526, 73.3527, 76.64, and 76.66(d) are 3060–0214, 3060–0844, 3060–0980, and 3060–1065.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0214.

OMB Approval Date: February 27, 2020.

OMB Expiration Date: February 28, 2023.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 73.1212, 76.1701 and 73.1943, Political Files.

Form Number: N/A.

Respondents: Business or other for profit entities; Not for profit institutions; State, Local or Tribal government; Individuals or households.

Number of Respondents and Responses: 23,984 respondents; 62,839 responses.

Estimated Time per Response: 1–52 hours.

Frequency of Response: On occasion reporting requirement, Recordkeeping requirement, Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections is contained in Sections 151, 152, 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,043,805 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, ''Broadcast Station Public Inspection Files,'' that covers the PII contained in the broadcast station public inspection files located on the Commission's website. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Nature and Extent of Confidentiality: Most of the documents comprising the public file consist of materials that are not of a confidential nature. Respondents complying with the information collection requirements may request that the information they submit be withheld from disclosure. If confidentiality is requested, such requests will be processed in accordance with the Commission's rules, 47 CFR 0.459.

In addition, the Commission has adopted provisions that permit respondents subject to the information collection requirement for Shared Service Agreements to redact confidential or proprietary information from their disclosures.

Needs and Uses: In 2019, the Commission adopted new rules governing the delivery and form of carriage election notices. Electronic Delivery of MVPD Communications, Modernization of Media Regulation Initiative, MB Docket Nos. 17–105, 17–317, Report and Order and Further Notice of Proposed Rulemaking, FCC 19–69, 2019 WL 3065517 (rel. Jul. 11, 2019). Pursuant to that decision, the public file obligations of full power television broadcasters were slightly modified, although the resulting burdens will be unchanged. The modified information collection requirements are as follows:

47 CFR 73.3526(e)(15) requires that records be retained for the duration of the three-year election period. Commercial television stations must provide an up-to-date email address and phone number for carriage-related questions and respond as soon as is reasonably possible to messages or calls from MVPDs no later than July 31, 2020. Each commercial television station is responsible for the continuing accuracy and completeness of the information furnished.

47 CFR 73.3527(e)(12) requires that noncommercial television stations shall provide an up-to-date email address and phone number for carriage-related questions and respond as soon as is reasonably possible to messages or calls from MVPDs no later than July 31 2020. For stations requesting mandatory carriage, a copy of the request must be placed in its public file and shall retain both the request and relevant correspondence for the duration of any period to which the request applies.

OMB Control Number: 3060–0844.

OMB Approval Date: February 27, 2020.

OMB Expiration Date: February 28, 2023.

Title: Carriage of the Transmissions of Television Broadcast Stations: Section 76.56(a), Carriage of qualified noncommercial educational stations; Section 76.57, Channel positioning; Section 76.61(a)(1)–(2), Disputes concerning carriage; Section 76.64, Retransmission consent.

Form Number: N/A.

Respondents: Business or other for profit entities.

Number of Respondents and Responses: 4,872 respondents; 7,052 responses.

Estimated Time per Response: 0.5–5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory

authority for this information collection is contained in Sections 1, 4(i) and (j), 325, 336, 614 and 615 of the Communications Act of 1934, as amended.

Total Annual Burden: 4,471 hours.

Total Annual Cost: No cost.

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: In 2019, the Commission adopted new rules governing the delivery and form of carriage election notices. Electronic Delivery of MVPD Communications, Modernization of Media Regulation Initiative, MB Docket Nos. 17–105, 17–317, Report and Order and Further Notice of Proposed Rulemaking, FCC 19–69, 2019 WL 3065517 (rel. Jul. 11, 2019). Pursuant to that decision, the obligations of broadcasters and cable operators were slightly modified (see 47 CFR 76.64(h) below for the modified rule which requires review and approval from the Office of Management and Budget (OMB)). Under 47 CFR 76.64 the information collection requirements are as follows:

Paragraph (h)(1): Television broadcast station shall place a copy of its election statement, and copies of any election change notices applying to the upcoming carriage cycle, in the station's public file on or before each must-carry/retransmission consent election deadline.

Paragraph (h)(2): Each cable operator must provide an up-to-date email address for carriage election notice submissions concerning its systems and an up-to-date phone number for carriage-related questions. Cable Operators must respond to questions from broadcasters as soon as is reasonably possible.

Paragraph (h)(3): Stations shall send a notice of its election to a cable operator if one or more of that operator's systems is changing its election. The notice shall be sent to the email address provided by the cable system and carbon copied to *ElectionNotices@FCC.gov.* A notice must include the following: The:

Call sign;

community of license;

DMA where the station is located;

specific change being made in election status;

email address for carriage-related questions;

phone number for carriage-related questions;

name of the appropriate station contact person; and,

if the station changes its election for some systems of the cable operator but not all, the specific cable systems for which a carriage election applies.

(h)(4): Cable operators must respond via email in a reasonable time period and also acknowledge receipt of a television station's election notice.

OMB Control Number: 3060–0980.

OMB Approval Date: February 27, 2020.

OMB Expiration Date: February 28, 2023.

Title: Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues, 47 CFR Section 76.66.

Form Number: N/A.

Respondents: Business or other for profit entities.

Number of Respondents and Responses: 3,410 respondents; 4,388 responses.

Estimated Time per Response: 0.5–5 hours.

Frequency of Response: Third party disclosure requirement; On occasion reporting requirement; Once every three years reporting requirement; Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 325, 338, 339 and 340.

Total Annual Burden: 3,576 hours.

Total Annual Cost: $24,000.

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: In 2019, the Commission adopted new rules governing the delivery and form of carriage election notices. Electronic Delivery of MVPD Communications, Modernization of Media Regulation Initiative, MB Docket Nos. 17–105, 17–317, Report and Order and Further Notice of Proposed Rulemaking, FCC 19–69, 2019 WL 3065517 (rel. Jul. 11, 2019). Pursuant to that decision, the public file obligations of DBS providers, and the notice requirements of broadcasters, were slightly modified. The rule modifications were made to 47 CFR 76.66(d)(1)(ii)–(vi) and 76.66(d)(3)(ii) as indicated above. These modifications need OMB review and approval. They are as follows:

47 CFR 76.66(d)(1)(ii) requires that DBS providers to place an up-to-date email address for carriage election notice submissions. An up-to-date phone number for carriage-related questions in their public file is also required. This information must be kept updated and a response to questions from broadcasters is required expeditiously.

47 CFR 76.66(d)(1)(iii) requires stations to send notice when changing an election. The notices must be sent to the email address provided by the satellite carrier and carbon copied to *ElectionNotices@FCC.gov.*

47 CFR 76.66(d)(1)(iv) requires that television station's written notification shall include the following:

(A) Call sign;

(B) community of license;

(C) DMA where the station is located;

(D) specific change being made in election status;

(E) email address for carriage-related questions;

(F) phone number for carriage-related questions; and

(G) name of the appropriate station contact person.

47 CFR 76.66(d)(1)(v) requires that a satellite carrier must respond via email as soon as is reasonably possible to acknowledging receipt of a television station's election notice.

47 CFR 76.66(d)(1)(vi) requires within 30 days of receiving a television station's carriage request, a satellite carrier shall notify in writing:

(A) Local television stations it will not carry, along with the reasons for such a decision; and

(B) Local television stations it intends to carry.

47 CFR 76.66(d)(3)(ii) requires that a new television station make its election request in writing. The notification must be sent to the satellite carrier's email address provided by the satellite carrier and carbon copied to *ElectionNotices@FCC.gov* between 60 days prior to commencing broadcasting and 30 days after commencing broadcasting. The information in paragraph (d)(1)(iv) must be contained in the written notification.

OMB Control Number: 3060–1065.

OMB Approval Date: February 27, 2020.

OMB Expiration Date: February 28, 2023.

Title: Section 25.701 of the Commission's Rules, Direct Broadcast Satellite Public Interest Obligations.

Form Number: N/A.

Respondents: Business or other for profit entities.

Number of Respondents and Responses: 2 respondents; 2 responses.

Estimated Time per Response: 1–10 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; one time reporting requirement; annual reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information

collection is contained in Section 335 of the Communications Act of 1934, as amended.

Total Annual Burden: 49 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impacts.

Nature and Extent of Confidentiality: Although the Commission does not believe that any confidential information will need to be disclosed in order to comply with the information collection requirements, applicants are free to request that materials or information submitted to the Commission be withheld from public inspection. (See 47 CFR 0.459).

Needs and Uses: In 2019, the Commission adopted new rules governing the delivery and form of carriage election notices. Electronic Delivery of MVPD Communications, Modernization of Media Regulation Initiative, MB Docket Nos. 17–105, 17–317, Report and Order and Further Notice of Proposed Rulemaking, FCC 19–69, 2019 WL 3065517 (rel. Jul. 11, 2019). Pursuant to that decision, the public file obligations of DBS providers were slightly modified. Therefore, the following information collection requirement needs review and approval from the Office of Management and Budget (OMB):

47 CFR 25.701(f)(6)(i)(D) requires that each satellite carrier shall provide an up-to-date email address for carriage election notice submissions and an up-to-date phone number for carriage-related questions. Each satellite carrier is responsible for the continuing accuracy and completeness of the information furnished. The satellite carrier must respond to questions from broadcasters as soon as is reasonably possible.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2020–05170 Filed 3–23–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 181203999–9503–02]

RTID 0648–XX044

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Possession and Trip Limit Increases for the Common Pool Fishery

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: This action increases the possession and trip limits of Georges Bank cod, Gulf of Maine cod, Gulf of Maine haddock, Cape Cod/Gulf of Maine yellowtail flounder, American plaice, and witch flounder for Northeast multispecies common pool vessels for the remainder of the 2019 fishing year. This action will provide the common pool fishery greater opportunity to harvest, but not exceed, the annual quotas for these stocks.

DATES: These possession and trip limit adjustments are effective March 23, 2020, through April 30, 2020.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, 978–281–9232.

SUPPLEMENTARY INFORMATION: The regulations at § 648.86(o) authorize the Regional Administrator to adjust the possession and trip limits for common pool vessels in order to help avoid overharvest or underharvest of the common pool quotas.

Based on most recent catch information, the common pool fishery has caught low amounts of the following species relative to the annual quotas for each of these stocks (Table 1): Georges Bank (GB) cod, Gulf of Maine (GOM) cod, GOM haddock, Cape Cod (CC)/GOM yellowtail flounder, American plaice, and witch flounder. At the current rate of fishing, we project that the common pool fishery will not fully harvest the annual quotas for these stocks by the end of the 2019 fishing year. Providing vessels an opportunity to possess and land greater amounts of catch should provide greater incentive to fish and more opportunity to catch available quota. Based on our review of past fishing effort, we project that increases in the possession and trip limit for these stocks should provide additional fishing opportunities and flexibility to catch available quota while ensuring that the common pool does not exceed its annual quotas.

TABLE 1—SUMMARY OF COMMON POOL CATCH

Stock	FY 2019 catch (mt)	Sub-ACL (mt)	Percent caught
GB cod	1.4	53.8	2.5
GOM cod	4.7	10.9	43.1
GOM haddock	6.9	96.1	7.1
CC/GOM yellowtail flounder	4.5	21.4	21
American plaice	3.8	31.4	12.2
Witch flounder	2.6	23.1	11.2

Effective March 23, 2020, until April 30, 2020, NMFS increases the possession and trip limits summarized in Tables 2 and 3.

TABLE 2—PREVIOUS POSSESSION AND TRIP LIMITS

Stock	A days-at-sea	Handgear A	Handgear B	Small vessel category
GB cod	250 lb (113.4 kg) per DAS, up to 500 lb (226.8 kg) per trip.	250 lb (113.4 kg) per trip	25 lb (11.3 kg) per trip	250 lb (113.4 kg) per trip.
GOM cod	50 lb (22.7 kg) per DAS, up to 100 lb (45.4 kg) per trip.	50 lb (22.7 kg) per trip	25 lb (11.3 kg) per trip	50 lb (22.7 kg) per trip.

TABLE 2—PREVIOUS POSSESSION AND TRIP LIMITS—Continued

Stock	A days-at-sea	Handgear A	Handgear B	Small vessel category
GOM haddock	500 lb (226.8 kg) per DAS, up to 1,000 lb (453.6 kg) per trip.	500 lb (226.8 kg) per trip.		
CC/GOM yellowtail flounder.	750 lb (340.2 kg) per DAS, up to 1,500 lb (680.4 kg) per trip.	750 lb (340.2 kg) per trip.		
American plaice	750 lb (340.2 kg) per DAS, up to 1,500 lb (680.4 kg) per trip.	750 lb (340.2 kg) per trip.		
Witch flounder	600 lb (272.2 kg) per trip.			

Note: The Small Vessel Category trip limit of 300 lb (136 kg) of cod, yellowtail flounder, and haddock combined remains in place.

TABLE 3—NEW POSSESSION AND TRIP LIMITS

Stock	A days-at-sea	Handgear A	Handgear B	Small vessel category
GB cod	500 lb (226.8 kg) per DAS, up to 1,000 lb (453.6 kg) per trip.	500 lb (226.8 kg) per trip	25 lb (11.3 kg) per trip	300 lb (136.1 kg) per trip.
GOM cod	100 lb (45.4 kg) per DAS, up to 200 lb (90.7 kg) per trip.	100 lb (45.4 kg) per trip	25 lb (11.3 kg) per trip	100 lb (45.4 kg) per trip.
GOM haddock	1,500 lb (680.4 kg) per DAS, up to 3,000 lb (1,360.8 kg) per trip.	1,500 lb (680.4 kg) per trip		300 lb (136.1 kg) per trip.
CC/GOM yellowtail flounder.	1,000 lb (453.6 kg) per DAS, up to 2,000 lb (907.2 kg) per trip.	1,000 lb (453.6 kg) per trip		300 lb (136.1 kg) per trip.
American plaice	1,500 lb (680.4 kg) per DAS, up to 3,000 lb (1,360.8 kg) per trip.	1,500 lb (680.4 kg) per trip.		
Witch flounder	1,200 lb (544.3 kg) per trip.			

Weekly quota monitoring reports for the common pool fishery can be found on our website at: *https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/nemultispecies.html.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because this action relieves possession and landing restrictions, and delayed implementation would be impracticable and contrary to the public interest.

The regulations at § 648.86(o) authorize the Regional Administrator to adjust the possession and trip limits for common pool vessels in order to help avoid overharvest or underharvest of the common pool quotas. The available analysis indicates that the increased possession and trip limit adjustments for these stocks should help the fishery achieve the optimum yields (OY) for each stock. Any delay in this action would limit the benefits to common pool vessels that the increased landing and possession limits are intended to provide.

The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would keep NMFS from implementing the necessary possession and trip limit before the end of the fishing year on April 30, 2020, which could prevent the fishery from achieving OY and cause negative economic impacts to the common pool fishery. This would undermine management objectives of the Northeast Multispecies Fishery Management Plan and cause unnecessary negative economic impacts to the common pool fishery. The public received prior notice and an opportunity to comment on the Regional Administrator's exercise of this authority. The fishing industry participants have experienced these adjustments and have become accustomed to this process. There is additional good cause to waive the delayed effective period because this action relieves restrictions on fishing vessels by increasing a trip limit.

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

Dated: March 19, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–06183 Filed 3–23–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 57
Tuesday, March 24, 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 AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 225, and 226

RIN 0584–AE72

Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This rulemaking proposes to amend the Summer Food Service Program (SFSP) regulations to strengthen program integrity by codifying in regulations changes that have been tested through policy guidance and by streamlining requirements among Child Nutrition Programs. These changes update important definitions, simplify the application process, enhance monitoring requirements, and provide more discretion at the State agency level to manage program operations. The intended effect of this rulemaking is to clarify, simplify, and streamline program administration in order to facilitate compliance with program requirements. The original comment period for this proposed rule, published on January 23, 2020, ends on March 23, 2020. FNS is extending the comment period through April 22, 2020.

DATES: The comment period of the proposed rule published January 23, 2020 at 85 FR 4094 has been extended through April 22, 2020. To be assured of consideration, comments must be received on or before April 22, 2020.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this proposed rule. Comments may be submitted in writing by one of the following methods:

- *Preferred Method: Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Andrea Farmer, Chief, Community Meals Branch, Policy and Program Development Division, USDA Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314.

All written comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the written comments publicly available on the internet via *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Andrea Farmer, Chief, Community Meals Branch, Policy and Program Development Division, USDA Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314, 703–305–2590.

SUPPLEMENTARY INFORMATION: The Food and Nutrition Service (FNS) is reopening the public comment period for this proposed rule, which was published on January 23, 2020 at 85 FR 4094. The Coronavirus Disease 2019 (COVID–19) outbreaks have had a strong impact on schools, state agencies, stakeholders and others who are working tirelessly to ensure children receive meals in light of school closures. USDA wants to give these parties, and the public at large, additional time to provide feedback on these proposed reforms.

Dated: March 16, 2020.

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2020–05978 Filed 3–23–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0236; Airspace Docket No. 18–AEA–16]

RIN 2120–AA66

Proposed Establishment and Amendment of Area Navigation Routes, Northeast Corridor Atlantic Coast Routes; Northeastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish 19 new high altitude area navigation (RNAV) routes (Q-routes), and modify 13 existing Q-routes, in support of the Northeast Corridor Atlantic Coast Route (NEC ACR) Project. This proposal would improve the efficiency of the National Airspace System (NAS) by expanding the availability of RNAV routing and reducing the dependency on ground-based navigational systems.

DATES: Comments must be received on or before May 8, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527 or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0236; Airspace Docket No. 18–AEA–16 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

fedreg.legal@nara.gov or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would expand the availability of RNAV routes in the NAS, increase airspace capacity, and reduce complexity in high air traffic volume areas.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2020–0236; Airspace Docket No. 18–AEA–16) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0236; Airspace Docket No. 18–AEA–16.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM's

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

Background

The Northeast Corridor Atlantic Coast Route (NEC ACR) project developed Performance Based Navigation (PBN) routes involving the Washington, Boston, New York, and Jacksonville Air Route Traffic Control Centers (ARTCC). The proposed routes would enable aircraft to travel from most locations along the east coast of the United States mainland between Maine and Charleston, SC. The proposed NEC ACR routes would also tie-in to the existing high altitude RNAV route structure enabling more efficient direct routings between the U.S. east coast and Caribbean area locations.

Additionally, the proposed Q-routes would support the strategy to transition the NAS from a ground-based navigation aid, and radar-based system, to a satellite-based PBN system.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish 19 new Q-routes, and amend 13 existing Q-routes, in the northeastern United States to support the Northeast Corridor Atlantic Coast Route project. The proposed new routes would be designated: Q–101, Q–107, Q–111, Q–115, Q–117, Q–119, Q–127, Q–129, Q–131, Q–133, Q–167, Q–220, Q–419, Q–430, Q–437, Q–439, Q–445, Q–450, and Q–481. In addition, amendments are proposed to the descriptions of the following existing routes: Q–22, Q–54, Q–60, Q–64, Q–85, Q–87, Q–97, Q–99, Q–109, Q–113, Q–135, Q–409, and Q–480.

Note: The route descriptions of Q–97, Q–109, Q–167, and Q–445 include waypoints located over international waters. In those route descriptions, in place of a two-letter state abbreviation, either ''OA,'' meaning ''Offshore Atlantic,'' or ''OG,'' meaning ''Offshore Gulf of Mexico,'' is used.

The proposed new Q-routes are as follows:

Q–101: Q–101 would extend between the SKARP, NC, waypoint (WP), and the DLAAY, MD, WP.

Q–107: Q–107 would extend between the GARIC, NC, WP, and the HURTS, VA, WP.

Q–111: Q–111 would extend between the ZORDO, NC, WP, and the ALXEA, VA, WP.

Q–115: Q–115 would extend between the Gordonsville, VA (GVE), VORTAC, and the Robbinsville, NJ (RBV), VORTAC.

Q–117: Q–117 would extend between the YLEEE, NC, WP, and the SAWED, VA, Fix.

Q–119: Q–119 would extend between the SCOOB, VA, WP, and the Westminster, MD (EMI), VORTAC.

Q–127: Q–127 would extend between the Gordonsville, VA (GVE), VORTAC, and the Smyrna, DE (ENO), VORTAC.

Q–129: Q–129 would extend between the GARIC, NC, WP, and the PYTON, MD, WP.

Q–131: Q–131 would extend between the ZILLS, NC, WP, and the ZJAAY, MD, WP.

Q–133: Q–133 would extend between the CHIEZ, NC, WP, and the PONCT, NY, WP.

Q–167: Q167 would extend between the ZJAAY, MD, WP, and the SSOXS, MA, Fix.

Q–220: Q–220 would extend between the RIFLE, NY, Fix, and the LARIE, MA, WP.

Q–419: Q–419 would extend between the BROSS, MD, Fix, and the Deer Park, NY (DPK), VOR/DME.

Q–430: Q–430 would extend between the ZANDER, OH, Fix, and the Nantucket, MA (ACK), VOR/DME.

Q–437: Q–437 would extend between the VILLS, NJ, Fix, and the SLANG, VT, WP

Q–439: Q–439 would extend between the BRIGS, NJ, Fix, and the Presque Isle, ME (PQI), VOR/DME.

Q–445: Q–445 would extend between the PAACK, NC, WP, and the KYSKY, NY, Fix.

Q–450: Q–450 would extend between the HNNAH, NJ, Fix, and the Deer Park, NY (DPK), VOR/DME.

Q–481: Q–481 would extend between the CONFR, MD, WP, and the Deer Park, NY (DPK), VOR/DME.

The above proposed new Q-routes would provide high altitude RNAV routing options in the general area between North Carolina and New England.

The proposed Q-route amendments are as follows:

Q–22: Q–22 extends between the GUSTI, LA, Fix, and the BEARI, VA, WP. This action would extend Q–22 northeast from the BEARI, VA, WP to the FOXWD, CT, WP. The following points would be inserted between the BEARI, VA, and the FOXWD, CT, WPs: UMBRE, VA, WP; BBOBO, VA, WP; SHTGN, MD, WP; SYFER, MD, WP; DANGR, MD, WP; PYTHN, DE, WP; BESSI, NJ, Fix; JOEPO, NJ, WP; BRAND, NJ, Fix; Robbinsville, NJ (RBV), VORTAC; LAURN, NY, Fix; LLUND, NY, Fix; and BAYYS, CT, Fix. As amended, Q–22 would extend between GUSTI, LA and FOXWD, CT. This would provide RNAV routing between Louisiana and the New England area.

Q–54: Q–54 extends between the Greenwood, SC (GRD), VORTAC, and the NUTZE, NC, WP. The proposal would remove the Greenwood VORTAC and add the HRTWL, SC, WP as a new end point for the route. In addition, the ASHEL, NC, WP would be added between the existing RAANE, NC, and the NUTZE, NC, WPs.

Q–60: Q–60 extends between the Spartanburg, SC (SPA), VORTAC, and the JAXSN, VA, Fix. This proposal would extend Q–60 northeast from the JAXSN, VA, Fix through the SHIRY, VA, WP, to the HURTS, VA, WP.

Q–64: Q–64 extends between the CATLN, AL, Fix, and the Tar River, NC (TYI), VORTAC. The proposal would remove the Greenwood, SC (GRD), VORTAC from the route and add the HRTWL, SC, WP between the FIGEY, GA and the DARRL, SC Fixes. The DADDS, NC, WP and the MARCL, NC, WPs would be added between the existing IDDAA, NC, WP, and the Tar River VORTAC. Additionally, the route would be extended northeast from the Tar River VORTAC, through the GUILD, NC, WP to the SAWED, VA, Fix.

Q–85: Q–85 extends between the LPERD, FL, WP, and the SMPRR, NC, WP. The proposal would insert the BEEGE, GA, WP between the LPERD, FL, and the GIPPL, GA, WPs. Additionally, the route would be extended to the northeast of the SMPRR, NC, WP by adding the PBCUP, NC, WP, the MOXXY, NC, WP, and the CRPLR, VA, WP after the SMPRR, NC, WP. As amended, Q–85 would extend between the LPERD, FL, WP and the CRPLR, VA, WP.

Q–87: Q–87 extends between the PEAKY, FL, WP, and the LCAPE, SC, WP. The route would be extended from the LCAPE, SC, WP to the HURTS, VA, WP. The following points would be inserted between the LCAPE, SC, and the HURTS, VA, WPs: ALWZZ, NC, WP; ASHEL, NC, WP; DADDS, NC, WP; NOWAE, NC, WP; RIDDN, VA, WP; and GEARS, VA, WP. The amended route would extend between PEAKY, FL, and HURTS, VA.

Q–97: Q–97 extends between TOVAR, FL, WP, and the ELLDE, NC, WP. The route would be extended northeast of the ELLDE, NC, WP to the Presque Isle, ME (PQI), VOR/DME. The following points would be inserted between the ELLDE, NC, and the Presque Isle VOR/DME: YEASO, NC, WP; PAACK, NC, WP; KOHLS, NC, WP; SAWED, VA, Fix; KALDA, VA, Fix; ZJAAY, MD, WP; DLAAY, MD, WP; BRIGS, NJ, Fix; HEADI, NJ, WP; SAILN, OA, WP; Calverton, NY (CCC), VOR/DME; NTMEG, CT, WP; VENTE, MA, WP; BLENO, NH, WP; BEEKN, ME, WP; and the FRIAR, ME, Fix. This would extend RNAV routing from southern North Carolina to Maine.

Q–99: Q–99 extends between the DOFFY, FL, WP, and the POLYY, NC, WP. Q–99 would be amended by moving the start point from the DOFFY, FL, WP to the KPASA, FL, WP (approximately 70 NM southeast of the DOFFY, FL, WP). From the KPASA WP, the route would proceed to the POLYY, NC, WP as currently charted. Then, the route would be extended northeast of the POLYY, NC, WP to the HURLE, VA, WP. The following points would be inserted between the POLYY, NC, and the HURLE, VA, WPs: RAANE, NC, WP; OGRAE, NC, WP; PEETT, NC, WP; SHIRY, VA, WP; UMBRE, VA, WP; and QUART, VA, WP. As amended, Q–99 would extend between the KPASA, FL WP, and the HURLE, VA, WP.

Q–109: Q–109 extends between the DOFFY, FL, WP, and the LAANA, NC, WP. This action would move the start point from the DOFFY, FL, WP to the KNOST, OG, WP (located over the Gulf of Mexico, approximately 40 NM northwest of the St. Petersburg, FL (PIE), VORTAC). This would provide connectivity to Gulf of Mexico routes. The DOFFY WP would be removed from the route. The DEANR, FL, WP, the BRUTS, FL, WP, and the EVANZ, FL, WP would be added to the route between the KNOST, OG, WP and the existing CAMJO, FL, WP. From that point the route would remain as currently charted to the LAANA, NC, WP. From the LAANA, NC, WP, Q–109 would be extended to the northeast through the TINKK, NC, WP to the DFENC, NC, WP. As amended, Q–109 would extend between the KNOST, OG, WP, and the DFENC, NC, WP.

Q–113: Q–113 extends between the RAYVO, SC, WP, and the SARKY, SC, WP. The route would be extended from the SARKY, SC, WP northeastward by adding the following WPs: MARCL, NC; AARNN, NC; and RIDDN, VA.

Q–135: Q–135 extends between the JROSS, SC, WP, and the RAPZZ, NC, WP. The route would be extended to the northeast of the RAPZZ, NC, WP by adding the ZORDO, NC, and the CUDLE, NC, WPs to the route. As amended, Q–135 would extend between the JROSS, SC, WP, and the CUDLE, NC, WP.

Q–409: Q–409 extends between the ENEME, GA, WP, and the MRPIT, NC, WP. Q–409 would remain as currently charted between the ENEME, GA, WP, and the MRPIT, NC, WP. The route would be extended to the northeast of the MRPIT WP by adding the following points: DEEEZ, NC, WP; GUILD, NC, WP; CRPLR, VA, WP; TRPOD, MD, WP; FELAT, DE, WP; VILLS, NJ, Fix; Coyle, NJ (CYN), VORTAC; to the WHITE, NJ, Fix. As amended, Q–409 would extend between the ENEME, GA, WP, and the WHITE, NJ, WP. This would extend RNAV routing from southern North Carolina to New Jersey.

Q–480: Q–480 extends between the ZANDR, OH, Fix, and the Kennebunk, ME, VORTAC. The route would be amended by inserting the KYLOH, NH, WP and the BEEKN, ME, WPs between the Barnes, MA (BAF), VORTAC, and the Kennebunk, ME (ENE), VOR/DME. Otherwise, Q–480 remains as currently charted.

Other changes to routes Q–85, Q–87, Q–99, and Q–109 are being proposed in a separate NPRM.

Full route descriptions of the proposed new and amended routes are listed in ''The Proposed Amendment'' section of this notice.

The proposed new and amended routes in this notice would expand the availability of high altitude RNAV routing along the eastern seaboard of the U.S. The project is designed to increase airspace capacity and reduce complexity in high volume areas through the use of optimized routes through congested airspace.

RNAV routes are published in paragraph 2006 of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in this document would be subsequently published in the Order.

Regulatory Notices and Analyses

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

promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–101 SKARP, NC to DLAAY, MD [New]

SKARP, NC	WP	(Lat. 34°29′10.30″ N, long. 077°24′37.54″ W)
PRANK, NC	WP	(Lat. 35°14′27.41″ N, long. 076°56′28.54″ W)
BGBRD, NC	WP	(Lat. 35°53′45.11″ N, long. 076°32′23.15″ W)
HYPAL, VA	WP	(Lat. 37°03′27.23″ N, long. 075°44′43.09″ W)
TUGGR, VA	WP	(Lat. 37°41′08.72″ N, long. 075°36′36.92″ W)
EELIE, VA	WP	(Lat. 37°51′07.01″ N, long. 075°29′53.82″ W)
DLAAY, MD	WP	(Lat. 38°24′42.80″ N, long. 075°08′56.85″ W)

Q–107 GARIC, NC to HURTS, VA [New]

GARIC, NC	WP	(Lat. 33°52′34.84″ N, long. 077°58′53.66″ W)
ZORDO, NC	WP	(Lat. 34°52′01.73″ N, long. 077°49′30.60″ W)
JAAMS, NC	WP	(Lat. 35°44′18.05″ N, long. 077°31′41.60″ W)
ALINN, NC	WP	(Lat. 36°28′15.05″ N, long. 077°17′15.81″ W)
HURTS, VA	WP	(Lat. 37°27′41.87″ N, long. 076°57′17.75″ W)

Q–111 ZORDO, NC to ALXEA, VA [New]

ZORDO, NC	WP	(Lat. 34°52′01.73″ N, long. 077°49′30.60″ W)
LARKE, NC	WP	(Lat. 35°36′16.63″ N, long. 077°39′33.59″ W)
RUKRR, VA	WP	(Lat. 36°33′00.47″ N, long. 077°29′22.43″ W)
GEARS, VA	WP	(Lat. 37°06′07.23″ N, long. 077°23′24.43″ W)
BUDWY, VA	WP	(Lat. 37°36′38.12″ N, long. 077°19′22.71″ W)
ALXEA, VA	WP	(Lat. 37°47′04.46″ N, long. 077°17′09.73″ W)

Q–115 Gordonsville, VA (GVE) to Robbinsville, NJ (RBV) [New]

Gordonsville, VA (GVE)	VORTAC	(Lat. 38°00′48.96″ N, long. 078°09′10.90″ W)
BOOYA, VA	WP	(Lat. 38°24′20.50″ N, long. 077°21′46.36″ W)
DUALY, MD	WP	(Lat. 38°45′53.59″ N, long. 076°50′33.76″ W)
BIGRG, MD	WP	(Lat. 39°15′13.92″ N, long. 076°07′13.77″ W)
PNGWN, NJ	WP	(Lat. 39°39′27.07″ N, long. 075°30′41.79″ W)
HULKK, NJ	WP	(Lat. 39°59′53.04″ N, long. 074°58′52.52″ W)
Robbinsville, NJ (RBV)	VORTAC	(Lat. 40°12′08.65″ N, long. 074°29′42.09″ W)

Q–117 YLEEE, NC to SAWED, VA [New]

YLEEE, NC	WP	(Lat. 34°33′40.63″ N, long. 077°40′27.89″ W)
CUDLE, NC	WP	(Lat. 35°08′19.48″ N, long. 077°32′36.22″ W)
SUSSA, NC	WP	(Lat. 35°40′37.55″ N, long. 077°08′20.62″ W)
KTEEE, NC	WP	(Lat. 35°54′55.66″ N, long. 076°57′30.45″ W)
SAWED, VA	FIX	(Lat. 37°32′00.73″ N, long. 075°51′29.10″ W)

Q–119 SCOOB, VA to Westminster, MD (EMI) [New]

SCOOB, VA	WP	(Lat. 37°35′32.00″ N, long. 076°37′49.00″ W)
GROKK, VA	WP	(Lat. 37°52′22.88″ N, long. 076°40′49.87″ W)
RYVRR, VA	WP	(Lat. 38°02′17.54″ N, long. 076°42′36.92″ W)
SHTGN, MD	WP	(Lat. 38°14′45.29″ N, long. 076°44′52.23″ W)
DUALY, MD	WP	(Lat. 38°45′53.59″ N, long. 076°50′33.76″ W)
HALEX, MD	WP	(Lat. 38°53′49.13″ N, long. 076°52′01.49″ W)
Westminster, MD (EMI)	VORTAC	(Lat. 39°29′42.03″ N, long. 076°58′42.86″ W)

Q–127 Gordonsville, VA (GVE) to Smyrna, DE (ENO) [New]

Gordonsville, VA (GVE)	VORTAC	(Lat. 38°00′48.96″ N, long. 078°09′10.89″ W)
BUKYY, MD	WP	(Lat. 38°42′20.00″ N, long. 076°44′42.63″ W)
BAILZ, MD	WP	(Lat. 38°44′54.47″ N, long. 076°38′48.17″ W)
GRACO, MD	FIX	(Lat. 38°56′29.81″ N, long. 076°11′59.22″ W)
Smyrna, DE (ENO)	VORTAC	(Lat. 39°13′53.93″ N, long. 075°30′57.49″ W)

Q–129 GARIC, NC to PYTON, MD [New]

GARIC, NC	WP	(Lat. 33°52′34.84″ N, long. 077°58′53.66″ W)
YERBA, NC	WP	(Lat. 35°19′00.83″ N, long. 077°55′44.62″ W)
AARNN, NC	WP	(Lat. 36°22′43.59″ N, long. 078°01′04.05″ W)

THEOO, VA	WP	(Lat. 37°35′34.68″ N, long. 078°07′20.23″ W)
PYTON, MD	WP	(Lat. 39°42′38.01″ N, long. 078°18′10.19″ W)

Q–131 ZILLS, NC to ZJAAY, MD [New]

ZILLS, NC	WP	(Lat. 33°47′32.68″ N, long. 077°52′08.59″ W)
YLEEE, NC	WP	(Lat. 34°33′40.63″ N, long. 077°40′27.89″ W)
EARZZ, NC	WP	(Lat. 35°54′39.84″ N, long. 076°51′21.64″ W)
ODAWG, VA	WP	(Lat. 37°07′11.61″ N, long. 076°02′03.17″ W)
KALDA, VA	FIX	(Lat. 37°50′31.05″ N, long. 075°37′35.34″ W)
ZJAAY, MD	WP	(Lat. 38°03′09.95″ N, long. 075°26′34.27″ W)

Q–133 CHIEZ, NC to PONCT, NY [New]

CHIEZ, NC	WP	(Lat. 34°31′05.93″ N, long. 077°32′25.74″ W)
BENCH, NC	WP	(Lat. 35°34′48.52″ N, long. 076°53′51.13″ W)
KOOKI, NC	WP	(Lat. 35°54′21.71″ N, long. 076°41′56.22″ W)
PYSTN, VA	WP	(Lat. 37°05′19.78″ N, long. 075°53′22.19″ W)
KALDA, VA	FIX	(Lat. 37°50′31.05″ N, long. 075°37′35.34″ W)
CONFR, MD	WP	(Lat. 38°16′10.90″ N, long. 075°24′32.98″ W)
MGERK, DE	WP	(Lat. 38°46′16.00″ N, long. 075°18′09.00″ W)
LEEAH, NJ	FIX	(Lat. 39°15′39.27″ N, long. 074°57′11.01″ W)
MYRCA, NJ	WP	(Lat. 40°20′42.97″ N, long. 073°56′58.07″ W)
Kennedy, NY (JFK)	VOR/DME	(Lat. 40°37′58.40″ N, long. 073°46′17.00″ W)
LLUND, NY	FIX	(Lat. 40°51′45.04″ N, long. 073°46′57.30″ W)
DUEYS, NY	FIX	(Lat. 41°09′09.46″ N, long. 073°47′48.52″ W)
GANDE, NY	FIX	(Lat. 41°30′36.66″ N, long. 073°48′52.03″ W)
PONCT, NY	WP	(Lat. 42°44′48.83″ N, long. 073°48′48.07″ W)

Q–167 ZJAAY, MD to SSOXS, MA [New]

ZJAAY, MD	WP	(Lat. 38°03′09.95″ N, long. 075°26′34.27″ W)
PAJET, MD	WP	(Lat. 38°28′04.13″ N, long. 075°03′00.55″ W)
CAANO, MD	WP	(Lat. 38°31′46.37″ N, long. 074°58′52.32″ W)
TBONN, OA	WP	(Lat. 38°45′02.83″ N, long. 074°45′03.77″ W)
ZIZZI, NJ	FIX	(Lat. 38°56′26.46″ N, long. 074°31′44.27″ W)
YAZUU, NJ	FIX	(Lat. 39°24′44.82″ N, long. 074°01′01.55″ W)
TOPRR, OA	WP	(Lat. 39°50′49.13″ N, long. 073°32′12.02″ W)
EMJAY, NJ	FIX	(Lat. 40°05′34.89″ N, long. 073°15′42.31″ W)
SPDEY, OA	WP	(Lat. 40°14′56.38″ N, long. 073°05′08.69″ W)
RIFLE, NY	FIX	(Lat. 40°41′24.18″ N, long. 072°34′54.89″ W)
HOFFI, NY	FIX	(Lat. 40°48′03.46″ N, long. 072°27′41.97″ W)
ORCHA, NY	WP	(Lat. 40°54′55.46″ N, long. 072°18′43.64″ W)
ALBOW, NY	WP	(Lat. 41°02′04.04″ N, long. 071°58′30.69″ W)
GRONC, NY	WP	(Lat. 41°08′42.80″ N, long. 071°45′27.74″ W)
NESTT, RI	WP	(Lat. 41°21′35.84″ N, long. 071°20′05.38″ W)
BUZRD, MA	WP	(Lat. 41°32′45.88″ N, long. 070°57′50.69″ W)
SSOXS, MA	FIX	(Lat. 41°50′12.62″ N, long. 070°44′46.26″ W)

Q–220 RIFLE, NY to LARIE, MA [New]

RIFLE, NY	FIX	(Lat. 40°41′24.18″ N, long. 072°34′54.89″ W)
HOFFI, NY	FIX	(Lat. 40°48′03.46″ N, long. 072°27′41.97″ W)
ORCHA, NY	WP	(Lat. 40°54′55.46″ N, long. 072°18′43.64″ W)
ALBOW, NY	WP	(Lat. 41°02′04.04″ N, long. 071°58′30.69″ W)
Sandy Point, RI (SEY)	VOR/DME	(Lat. 41°10′02.77″ N, long. 071°34′33.91″ W)
SKOWL, RI	WP	(Lat. 41°15′47.18″ N, long. 071°16′44.35″ W)
JAWZZ, MA	WP	(Lat. 41°24′08.08″ N, long. 070°50′33.25″ W)
LARIE, MA	WP	(Lat. 41°49′23.46″ N, long. 069°58′41.96″ W)

Q–419 BROSS, MD to Deer Park, NY (DPK) [New]

BROSS, MD	FIX	(Lat. 39°11′28.40″ N, long. 075°52′49.88″ W)
MYFOO, DE	WP	(Lat. 39°26′10.15″ N, long. 075°36′44.70″ W)
NACYN, NJ	WP	(Lat. 39°36′49.19″ N, long. 075°24′59.30″ W)
BSERK, NJ	WP	(Lat. 39°47′27.01″ N, long. 075°13′10.29″ W)
HULKK, NJ	WP	(Lat. 39°59′53.04″ N, long. 074°58′52.52″ W)
Robbinsville, NJ (RBV)	VORTAC	(Lat. 40°12′08.65″ N, long. 074°29′42.09″ W)
LAURN, NY	FIX	(Lat. 40°33′05.80″ N, long. 074°07′13.67″ W)
Kennedy, NY (JFK)	VOR/DME	(Lat. 40°37′58.40″ N, long. 073°46′17.00″ W)
Deer Park, NY (DPK)	VOR/DME	(Lat. 40°47′30.30″ N, long. 073°18′13.17″ W)

Q–430 ZANDER, OH to Nantucket, MA (ACK) [New]

ZANDER, OH	FIX	(Lat. 40°00′18.75″ N, long. 081°31′58.35″ W)
Bellaire, OH (AIR)	VOR/DME	(Lat. 40°01′01.29″ N, long. 080°49′02.02″ W)
LEJOY, PA	FIX	(Lat. 40°00′12.22″ N, long. 079°24′53.61″ W)
VINSE, PA	FIX	(Lat. 39°58′16.21″ N, long. 077°57′21.20″ W)
BEETS, PA	FIX	(Lat. 39°57′20.57″ N, long. 077°26′59.55″ W)
LARRI, PA	FIX	(Lat. 39°57′02.33″ N, long. 077°17′54.14″ W)
SAAME, PA	FIX	(Lat. 40°01′51.82″ N, long. 076°29′02.39″ W)
BYRDD, PA	FIX	(Lat. 40°05′31.93″ N, long. 075°49′07.29″ W)
COPES, PA	FIX	(Lat. 40°07′50.57″ N, long. 075°22′36.37″ W)
Robbinsville, NJ (RBV)	VORTAC	(Lat. 40°12′08.65″ N, long. 074°29′42.09″ W)

MYRCA, NJ	WP	(Lat. 40°20′42.97″ N, long. 073°56′58.07″ W)
CREEL, NY	FIX	(Lat. 40°26′50.51″ N, long. 073°33′10.68″ W)
RIFLE, NY	FIX	(Lat. 40°41′24.18″ N, long. 072°34′54.89″ W)
KYSKY, NY	FIX	(Lat. 40°46′52.75″ N, long. 072°12′21.45″ W)
LIBBE, NY	FIX	(Lat. 41°00′15.86″ N, long. 071°21′20.34″ W)
FLAPE, MA	FIX	(Lat. 41°03′56.30″ N, long. 071°04′10.55″ W)
DEEPO, MA	FIX	(Lat. 41°06′53.96″ N, long. 070°50′09.85″ W)
Nantucket, MA (ACK)	VOR/DME	(Lat. 41°16′54.79″ N, long. 070°01′36.16″ W)

Q–437 VILLS, NJ to SLANG, VT [New]

VILLS, NJ	FIX	(Lat. 39°18′03.87″ N, long. 075°06′37.89″ W)
DITCH, NJ	FIX	(Lat. 39°47′37.86″ N, long. 074°42′59.88″ W)
LUIGI, NJ	FIX	(Lat. 40°04′09.65″ N, long. 074°26′40.32″ W)
HNNAH, NJ	FIX	(Lat. 40°28′12.73″ N, long. 074°02′36.62″ W)
LLUND, NY	FIX	(Lat. 40°51′45.04″ N, long. 073°46′57.30″ W)
BINGS, NY	WP	(Lat. 42°00′33.26″ N, long. 073°30′01.81″ W)
SLANG, VT	WP	(Lat. 43°14′24.64″ N, long. 073°11′09.69″ W)

Q–439 BRIGS, NJ to Presque Isle, ME (PQI) [New]

BRIGS, NJ	FIX	(Lat. 39°31′24.72″ N, long. 074°08′19.67″ W)
DRIFT, NJ	FIX	(Lat. 39°48′53.56″ N, long. 073°40′49.53″ W)
MANTA, NJ	FIX	(Lat. 39°54′07.01″ N, long. 073°32′31.63″ W)
PLUME, NJ	FIX	(Lat. 40°07′06.67″ N, long. 073°17′08.03″ W)
SHERL, NY	FIX	(Lat. 40°15′20.55″ N, long. 073°07′18.26″ W)
DUNEE, NY	FIX	(Lat. 40°19′24.38″ N, long. 073°02′26.06″ W)
SARDI, NY	FIX	(Lat. 40°31′26.61″ N, long. 072°47′55.87″ W)
RIFLE, NY	FIX	(Lat. 40°41′24.18″ N, long. 072°34′54.89″ W)
FOXWD, CT	WP	(Lat. 41°48′21.66″ N, long. 071°48′07.03″ W)
BOGRT, MA	WP	(Lat. 42°13′56.08″ N, long. 071°31′07.37″ W)
BLENO, NH	WP	(Lat. 42°54′55.00″ N, long. 071°04′43.37″ W)
BEEKN, ME	WP	(Lat. 43°20′51.95″ N, long. 070°44′50.28″ W)
FRIAR, ME	FIX	(Lat. 44°26′28.93″ N, long. 069°53′04.38″ W)
Presque Isle, ME (PQI)	VOR/DME	(Lat. 46°46′27.07″ N, long. 068°05′40.37″ W)

Q–445 PAACK, NC to KYSKY, NY [New]

PAACK, NC	WP	(Lat. 35°55′40.26″ N, long. 077°15′30.99″ W)
JAMIE, VA	FIX	(Lat. 37°36′20.58″ N, long. 075°57′48.81″ W)
CONFR, MD	WP	(Lat. 38°16′10.90″ N, long. 075°24′32.98″ W)
RADDS, DE	FIX	(Lat. 38°38′54.80″ N, long. 075°05′18.48″ W)
WNSTN, NJ	WP	(Lat. 39°05′43.81″ N, long. 074°48′01.20″ W)
AVALO, NJ	FIX	(Lat. 39°16′54.52″ N, long. 074°30′50.75″ W)
BRIGS, NJ	FIX	(Lat. 39°31′24.72″ N, long. 074°08′19.67″ W)
SHAUP, OA	WP	(Lat. 39°44′23.91″ N, long. 073°34′33.84″ W)
VALCO, OA	WP	(Lat. 40°05′29.86″ N, long. 073°08′22.91″ W)
KYSKY, NY	FIX	(Lat. 40°46′52.75″ N, long. 072°12′21.45″ W)

Q–450 HNNAH, NJ to Deer Park, NY (DPK) [New]

HNNAH, NJ	FIX	(Lat. 40°28′12.73″ N, long. 074°02′36.62″ W)
Kennedy, NY (JFK)	VOR/ME	(Lat. 40°37′58.40″ N, long. 073°46′17.00″ W)
Deer Park, NY (DPK)	VOR/DME	(Lat. 40°47′30.30″ N, long. 073°18′13.17″ W)

Q–481 CONFR, MD to Deer Park, NY (DPK) [New]

CONFR, MD	WP	(Lat. 38°16′10.90″ N, long. 075°24′32.98″ W)
MGERK, DE	WP	(Lat. 38°46′16.00″ N, long. 075°18′09.00″ W)
LEEAH, NJ	FIX	(Lat. 39°15′39.27″ N, long. 074°57′11.01″ W)
ZIGGI, NJ	FIX	(Lat. 40°03′07.01″ N, long. 074°00′49.34″ W)
Deer Park, NY (DPK)	VOR/DME	(Lat. 40°47′30.30″ N, long. 073°18′13.17″ W)

Q–22 GUSTI, LA to FOXWD, CT [Amended]

GUSTI, LA	FIX	(Lat. 29°58′15.34″ N, long. 092°54′35.29″ W)
OYSTY, LA	FIX	(Lat. 30°28′15.21″ N, long. 090°11′49.14″ W)
ACMES, AL	WP	(Lat. 30°55′27.13″ N, long. 088°22′10.82″ W)
CATLN, AL	FIX	(Lat. 31°18′26.03″ N, long. 087°34′47.75″ W)
TWOUP, GA	WP	(Lat. 33°53′45.39″ N, long. 083°49′08.39″ W)
Spartanburg, SC (SPA)	VORTAC	(Lat. 35°02′01.05″ N, long. 081°55′37.24″ W)
NYBLK, NC	WP	(Lat. 35°34′34.99″ N, long. 081°02′33.96″ W)
MASHI, NC	WP	(Lat. 35°58′17.90″ N, long. 080°23′04.71″ W)
KIDDO, NC	WP	(Lat. 36°10′34.90″ N, long. 080°02′23.69″ W)
OMENS, VA	WP	(Lat. 36°49′29.00″ N, long. 078°55′29.78″ W)
BEARI, VA	WP	(Lat. 37°12′01.97″ N, long. 078°15′23.85″ W)
UMBRE, VA	WP	(Lat. 37°23′38.72″ N, long. 077°49′09.50″ W)
BBOBO, VA	WP	(Lat. 37°41′33.79″ N, long. 077°07′57.59″ W)
SHTGN, MD	WP	(Lat. 38°14′45.29″ N, long. 076°44′52.23″ W)
SYFER, MD	WP	(Lat. 38°25′19.31″ N, long. 076°33′26.82″ W)
DANGR, MD	WP	(Lat. 38°57′36.25″ N, long. 075°58′30.85″ W)
PYTHN, DE	WP	(Lat. 39°18′06.97″ N, long. 075°33′59.66″ W)
BESSI, NJ	FIX	(Lat. 39°40′34.84″ N, long. 075°06′44.53″ W)
JOEPO, NJ	WP	(Lat. 39°54′22.11″ N, long. 074°52′17.73″ W)

BRAND, NJ	FIX	(Lat. 40°02′06.28″ N, long. 074°44′09.50″ W)
Robbinsville, NJ (RBV)	VORTAC	(Lat. 40°12′08.65″ N, long. 074°29′42.09″ W)
LAURN, NY	FIX	(Lat. 40°33′05.80″ N, long. 074°07′13.67″ W)
LLUND, NY	FIX	(Lat. 40°51′45.04″ N, long. 073°46′57.30″ W)
BAYYS, CT	FIX	(Lat. 41°17′21.27″ N, long. 072°58′16.73″ W)
FOXWD, CT	WP	(Lat. 41°48′21.66″ N, long. 071°48′07.03″ W)

Q–54 HRTWL SC to NUTZE, NC [Amended]

HRTWL, SC	WP	(Lat. 34°15′05.33″ N, long. 082°09′15.55″ W)
NYLLA, SC	WP	(Lat. 34°34′38.94″ N, long. 081°17′00.48″ W)
CHYPS, NC	WP	(Lat. 34°53′17.92″ N, long. 080°25′57.04″ W)
AHOEY, NC	WP	(Lat. 35°00′36.28″ N, long. 080°05′55.93″ W)
RAANE, NC	WP	(Lat. 35°09′21.97″ N, long. 079°41′33.90″ W)
ASHEL, NC	WP	(Lat. 35°25′43.32″ N, long. 078°54′48.07″ W)
NUTZE, NC	WP	(Lat. 35°50′40.43″ N, long. 077°40′56.72″ W)

Q–60 Spartanburg, SC (SPA) to HURTS, VA [Amended]

Spartanburg, SC (SPA)	VORTAC	(Lat. 35°02′01.05″ N, long. 081°55′37.24″ W)
BYJAC, NC	FIX	(Lat. 35°57′27.08″ N, long. 080°09′02.83″ W)
EVING, NC	WP	(Lat. 36°05′21.65″ N, long. 079°53′56.38″ W)
LOOEY, VA	WP	(Lat. 36°35′04.56″ N, long. 079°01′09.41″ W)
JAXSN, VA	FIX	(Lat. 36°42′38.22″ N, long. 078°47′23.31″ W)
SHIRY, VA	WP	(Lat. 36°58′33.28″ N, long. 078°09′13.11″ W)
HURTS, VA	WP	(Lat. 37°27′41.87″ N, long. 076°57′17.75″ W)

Q–64 CATLN, AL to SAWED, VA [Amended]

CATLN, AL	FIX	(Lat. 31°18′26.03″ N, long. 087°34′47.75″ W)
FIGEY, GA	WP	(Lat. 33°52′26.94″ N, long. 082°52′22.76″ W)
HRTWL, SC	WP	(Lat. 34°15′05.33″ N, long. 082°09′15.55″ W)
DARRL, SC	FIX	(Lat. 34°47′49.47″ N, long. 081°03′21.62″ W)
IDDAA, NC	WP	(Lat. 35°11′05.10″ N, long. 079°59′30.69″ W)
DADDS, NC	WP	(Lat. 35°36′30.35″ N, long. 078°47′20.70″ W)
MARCL, NC	WP	(Lat. 35°43′54.41″ N, long. 078°25′46.57″ W)
Tar River, NC (TYI)	VORTAC	(Lat. 35°58′36.20″ N, long. 077°42′13.43″ W)
GUILD, NC	WP	(Lat. 36°18′49.56″ N, long. 077°14′59.96″ W)
SAWED, VA	FIX	(Lat. 37°32′00.73″ N, long. 075°51′29.10″ W)

Q–85 LPERD, FL to CRPLR, VA [Amended]

LPERD, FL	WP	(Lat. 30°36′09.18″ N, long. 081°16′52.16″ W)
BEEGE, GA	WP	(Lat. 31°10′59.98″ N, long. 081°16′57.50″ W)
GIPPL, GA	WP	(Lat. 31°22′53.96″ N, long. 081°09′53.70″ W)
ROYCO, GA	WP	(Lat. 31°35′10.38″ N, long. 081°02′22.45″ W)
IGARY, SC	WP	(Lat. 32°34′41.37″ N, long. 080°22′36.01″ W)
PELIE, SC	WP	(Lat. 33°21′23.88″ N, long. 079°44′43.43″ W)
BUMMA, SC	WP	(Lat. 34°01′58.09″ N, long. 079°11′07.50″ W)
KAATT, NC	WP	(Lat. 34°15′35.43″ N, long. 078°59′42.38″ W)
SMPRR, NC	WP	(Lat. 34°26′28.32″ N, long. 078°50′31.80″ W)
PBCUP, NC	WP	(Lat. 34°59′29.65″ N, long. 078°19′51.07″ W)
MOXXY, NC	WP	(Lat. 36°02′46.63″ N, long. 077°19′31.71″ W)
CRPLR, VA	WP	(Lat. 37°36′24.01″ N, long. 076°09′57.67″ W)

Q–87 PEAKY, FL to HURTS, VA [Amended]

PEAKY, FL	WP	(Lat. 24°35′23.72″ N, long. 081°08′53.91″ W)
GOPEY, FL	WP	(Lat. 25°09′32.92″ N, long. 081°05′17.11″ W)
GRIDS, FL	WP	(Lat. 26°24′54.27″ N, long. 080°57′11.40″ W)
TIRCO, FL	WP	(Lat. 27°19′05.75″ N, long. 080°51′16.67″ W)
MATLK, FL	WP	(Lat. 27°49′36.54″ N, long. 080°57′04.27″ W)
ONEWY, FL	WP	(Lat. 28°21′53.66″ N, long. 081°03′21.04″ W)
ZERBO, FL	WP	(Lat. 28°54′56.68″ N, long. 081°17′40.13″ W)
DUCEN, FL	WP	(Lat. 29°16′33.83″ N, long. 081°19′23.24″ W)
FEMON, FL	WP	(Lat. 30°27′31.57″ N, long. 081°23′36.20″ W)
VIYAP, GA	FIX	(Lat. 31°15′08.15″ N, long. 081°26′08.18″ W)
TAALN, GA	WP	(Lat. 31°59′56.18″ N, long. 081°01′41.91″ W)
JROSS, SC	WP	(Lat. 32°42′40.00″ N, long. 080°37′38.00″ W)
RAYVO, SC	WP	(Lat. 33°38′44.12″ N, long. 080°04′00.84″ W)
HINTZ, SC	WP	(Lat. 34°10′11.02″ N, long. 079°44′48.12″ W)
REDFH, SC	WP	(Lat. 34°22′36.35″ N, long. 079°37′08.34″ W)
LCAPE, SC	WP	(Lat. 34°33′03.47″ N, long. 079°30′39.47″ W)
ALWZZ, NC	WP	(Lat. 34°42′02.90″ N, long. 079°24′36.57″ W)
ASHEL, NC	WP	(Lat. 35°25′43.32″ N, long. 078°54′48.07″ W)
DADDS, NC	WP	(Lat. 35°36′30.35″ N, long. 078°47′20.70″ W)
NOWAE, NC	WP	(Lat. 36°22′39.49″ N, long. 078°14′59.21″ W)
RIDDN, VA	WP	(Lat. 36°47′21.19″ N, long. 077°45′50.29″ W)
GEARS, VA	WP	(Lat. 37°06′07.23″ N, long. 077°23′24.43″ W)
HURTS, VA	WP	(Lat. 37°27′41.87″ N, long. 076°57′17.75″ W)

Q–97 TOVAR, FL to Presque Isle, ME (PQI) [Amended]

TOVAR, FL	WP	(Lat. 26°33′05.09″ N, long. 080°02′19.75″ W)

EBAYY, FL	WP	(Lat. 27°43′40.20″ N, long. 080°30′03.59″ W)
MALET, FL	FIX	(Lat. 28°41′29.90″ N, long. 080°52′04.30″ W)
DEBRL, FL	WP	(Lat. 29°17′48.73″ N, long. 081°08′02.88″ W)
KENLL, FL	WP	(Lat. 29°34′28.35″ N, long. 081°07′25.26″ W)
PRMUS, FL	WP	(Lat. 29°49′05.67″ N, long. 081°07′20.74″ W)
WOPNR, OA	WP	(Lat. 30°37′36.03″ N, long. 081°04′26.44″ W)
JEVED, GA	WP	(Lat. 31°15′02.60″ N, long. 081°03′40.14″ W)
CAKET, SC	WP	(Lat. 32°31′08.63″ N, long. 080°16′09.21″ W)
ELMSZ, SC	WP	(Lat. 33°40′36.61″ N, long. 079°17′59.56″ W)
YURCK, NC	WP	(Lat. 34°11′14.80″ N, long. 078°52′40.62″ W)
ELLDE, NC	WP	(Lat. 34°24′14.57″ N, long. 078°41′50.60″ W)
YEASO, NC	WP	(Lat. 35°33′12.41″ N, long. 077°37′07.28″ W)
PAACK, NC	WP	(Lat. 35°55′40.26″ N, long. 077°15′30.99″ W)
KOHLS, NC	WP	(Lat. 36°22′17.76″ N, long. 076°52′21.48″ W)
SAWED, VA	FIX	(Lat. 37°32′00.73″ N, long. 075°51′29.10″ W)
KALDA, VA	FIX	(Lat. 37°50′31.05″ N, long. 075°37′35.34″ W)
ZJAAY, MD	WP	(Lat. 38°03′09.95″ N, long. 075°26′34.27″ W)
DLAAY, MD	WP	(Lat. 38°24′42.80″ N, long. 075°08′56.85″ W)
BRIGS, NJ	FIX	(Lat. 39°31′24.72″ N, long. 074°08′19.67″ W)
HEADI, NJ	WP	(Lat. 39°57′49.56″ N, long. 073°43′28.85″ W)
SAILN, OA	WP	(Lat. 40°15′15.92″ N, long. 073°27′01.93″ W)
Calverton, NY (CCC)	VOR/DME	(Lat. 40°55′46.63″ N, long. 072°47′55.89″ W)
NTMEG, CT	WP	(Lat. 41°16′30.75″ N, long. 072°28′52.08″ W)
VENTE, MA	WP	(Lat. 42°08′24.33″ N, long. 071°53′38.08″ W)
BLENO, NH	WP	(Lat. 42°54′55.00″ N, long. 071°04′43.37″ W)
BEEKN, ME	WP	(Lat. 43°20′51.95″ N, long. 070°44′50.28″ W)
FRIAR, ME	FIX	(Lat. 44°26′28.93″ N, long. 069°53′04.38″ W)
Presque Isle, ME (PQI)	VOR/DME	(Lat. 46°46′27,07″ N, long. 068°05′40.37″ W)

Q–99 KPASA, FL to HURLE, VA [Amended]

KPASA, FL	WP	(Lat. 28°10′34.00″ N, long. 081°54′27.00″ W)
DOFFY, FL	WP	(Lat. 29°15′22.73″ N, long. 082°31′38.10″ W)
CAMJO, FL	WP	(Lat. 30°30′32.00″ N, long. 082°41′11.00″ W)
HEPAR, GA	WP	(Lat. 31°05′13.00″ N, long. 082°33′46.00″ W)
TEEEM, GA	WP	(Lat. 32°08′41.20″ N, long. 081°54′50.57″ W)
BLAAN, SC	WP	(Lat. 33°51′09.38″ N, long. 080°53′32.78″ W)
BWAGS, SC	WP	(Lat. 34°00′03.77″ N, long. 080°45′12.26″ W)
EFFAY, SC	WP	(Lat. 34°15′30.67″ N, long. 080°30′37.94″ W)
WNGUD, SC	WP	(Lat. 34°41′53.16″ N, long. 080°06′12.12″ W)
POLYY, NC	WP	(Lat. 34°48′37.54″ N, long. 079°59′55.81″ W)
RAANE, NC	WP	(Lat. 35°09′21.97″ N, long. 079°41′33.90″ W)
OGRAE, NC	WP	(Lat. 35°44′44.41″ N, long. 079°11′07.71″ W)
PEETT, NC	WP	(Lat. 36°26′44.93″ N, long. 078°34′16.17″ W)
SHIRY, VA	WP	(Lat. 36°58′33.28″ N, long. 078°09′13.11″ W)
UMBRE, VA	WP	(Lat. 37°23′38.72″ N, long. 077°49′09.50″ W)
QUART, VA	WP	(Lat. 37°31′25.15″ N, long. 077°42′53.29″ W)
HURLE, VA	WP	(Lat. 37°44′01.09″ N, long. 077°32′42.16″ W)

Q–109 KNOST, OG to DFENC, NC [Amended]

KNOST, OG	WP	(Lat. 28°00′02.55″ N, long. 083°25′23.99″ W)
DEANR, FL	WP	(Lat. 29°15′30.40″ N, long. 083°03′30.24″ W)
BRUTS, FL	WP	(Lat. 29°30′58.00″ N, long. 082°58′57.00″ W)
EVANZ, FL	WP	(Lat. 29°54′12.11″ N, long. 082°52′03.81″ W)
CAMJO, FL	WP	(Lat. 30°30′32.00″ N, long. 082°41′11.00″ W)
HEPAR, GA	WP	(Lat. 31°05′13.00″ N, long. 082°33′46.00″ W)
TEEEM, GA	WP	(Lat. 32°08′41.20″ N, long. 081°54′50.57″ W)
RIELE, SC	WP	(Lat. 32°37′27.14″ N, long. 081°23′34.97″ W)
PANDY, SC	WP	(Lat. 33°28′29.39″ N, long. 080°26′55.21″ W)
RAYVO, SC	WP	(Lat. 33°38′44.12″ N, long. 080°04′00.84″ W)
SESUE, SC	WP	(Lat. 33°52′02.58″ N, long. 079°33′51.88″ W)
BUMMA, SC	WP	(Lat. 34°01′58.09″ N, long. 079°11′07.50″ W)
YURCK, NC	WP	(Lat. 34°11′14.80″ N, long. 078°52′40.62″ W)
LAANA, NC	WP	(Lat. 34°19′41.35″ N, long. 078°35′37.16″ W)
TINKK, NC	WP	(Lat. 34°51′03.78″ N, long. 078°05′48.08″ W)
DFENC, NC	WP	(Lat. 35°55′11.09″ N, long. 077°03′37.54″ W)

Q–113 RAYVO, SC to RIDDN, VA [Amended]

RAYVO, SC	WP	(Lat. 33°38′44.12″ N, long. 080°04′00.84″ W)
CEELY, SC	WP	(Lat. 34°12′54.72″ N, long. 079°27′57.01″ W)
SARKY, SC	WP	(Lat. 34°25′41.43″ N, long. 079°14′17.50″ W)
MARCL, NC	WP	(Lat. 35°43′54.41″ N, long. 078°25′46.57″ W)
AARNN, NC	WP	(Lat. 36°22′43.59″ N, long. 078°01′04.05″ W)
RIDDN, VA	WP	(Lat. 36°47′21.19″ N, long. 077°45′50.29″ W)

Q–135 JROSS, SC to CUDLE, NC [Amended]

JROSS, SC	WP	(Lat. 32°42′40.00″ N, long. 080°37′38.00″ W)
PELIE, SC	WP	(Lat. 33°21′23.88″ N, long. 079°44′43.43″ W)
ELMSZ, SC	WP	(Lat. 33°40′36.61″ N, long. 079°17′59.56″ W)

RAPZZ, NC	WP	(Lat. 34°15′03.34″ N, long. 078°29′17.58″ W)
ZORDO, NC	WP	(Lat. 34°52′01.73″ N, long. 077°49′30.60″ W)
CUDLE, NC	WP	(Lat. 35°08′19.48″ N, long. 077°32′36.22″ W)

Q–409 ENEME, GA to WHITE, NJ [Amended]

ENEME, GA	WP	(Lat. 30°42′12.09″ N, long. 082°26′09.31″ W)
PUPYY, GA	WP	(Lat. 31°24′35.58″ N, long. 081°49′06.19″ W)
ISUZO, GA	WP	(Lat. 31°57′47.85″ N, long. 081°14′14.79″ W)
KONEY, SC	WP	(Lat. 32°17′01.62″ N, long. 081°01′23.79″ W)
JROSS, SC	WP	(Lat. 32°42′40.00″ N, long. 080°37′38.00″ W)
SESUE, SC	WP	(Lat. 33°52′02.58″ N, long. 079°33′51.88″ W)
OKNEE, SC	WP	(Lat. 34°15′39.92″ N, long. 079°10′40.68″ W)
MRPIT, NC	WP	(Lat. 34°26′05.09″ N, long. 079°01′45.10″ W)
DEEEZ, NC	WP	(Lat. 35°16′55.92″ N, long. 078°14′24.28″ W)
GUILD, NC	WP	(Lat. 36°18′49.56″ N, long. 077°14′59.96″ W)
CRPLR, VA	WP	(Lat. 37°36′24.01″ N, long. 076°09′57.67″ W)
TRPOD, MD	WP	(Lat. 38°20′17.30″ N, long. 075°30′28.27″ W)
FELAT, DE	WP	(Lat. 39°05′20.33″ N, long. 075°22′14.81″ W)
VILLS, NJ	FIX	(Lat. 39°18′03.87″ N, long. 075°06′37.89″ W)
Coyle, NJ (CYN)	VORTAC	(Lat. 39°49′02.42″ N, long. 074°25′53.85″ W)
WHITE, NJ	FIX	(Lat. 40°00′24.32″ N, long. 074°15′04.61″ W)

Q–480 ZANDR, OH to Kennebunk, ME (ENE) [Amended]

ZANDR, OH	FIX	(Lat. 40°00′18.75″ N, long. 081°31′58.35″ W)
Bellaire, OH (AIR)	VOR/DME	(Lat. 40°01′01.29″ N, long. 080°49′02.02″ W)
LEJOY, PA	FIX	(Lat. 40°00′12.22″ N, long. 079°24′53.61″ W)
VINSE, PA	FIX	(Lat. 39°58′16.21″ N, long. 077°57′21.20″ W)
BEETS, PA	FIX	(Lat. 39°57′20.57″ N, long. 077°26′59.55″ W)
HOTEE, PA	WP	(Lat. 40°20′36.00″ N, long. 076°29′37.00″ W)
MIKYG, PA	WP	(Lat. 40°36′06.00″ N, long. 075°49′11.00″ W)
SPOTZ, PA	WP	(Lat. 40°45′55.00″ N, long. 075°22′59.00″ W)
CANDR, NJ	FIX	(Lat. 40°58′15.55″ N, long. 074°57′35.38″ W)
JEFFF, NJ	FIX	(Lat. 41°14′46.38″ N, long. 074°27′43.29″ W)
Kingston, NY (IGN)	VOR/DME	(Lat. 41°39′55.62″ N, long. 073°49′20.01″ W)
LESWL, CT	WP	(Lat. 41°53′31.00″ N, long. 073°19′20.00″ W)
Barnes, MA (BAF)	VORTAC	(Lat. 42°09′43.05″ N, long. 072°42′58.32″ W)
KYLOH, NH	WP	(Lat. 43°03′53.11″ N, long. 071°13′45.49″ W)
BEEKN, ME	WP	(Lat. 43°20′51.95″ N, long. 070°44′50.28″ W)
Kennebunk, ME (ENE)	VOR/DME	(Lat. 43°25′32.42″ N, long. 070°36′48.69″ W)

* * * * *

Issued in Washington, DC, on March 11, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–05860 Filed 3–23–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0244; Airspace Docket No. 19–AGL–1]

RIN 2120–AA66

Proposed Amendment of VOR Federal Airways V–24, V–97, and V–171 in the Vicinity of Lone Rock, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend VHF Omnidirectional Range (VOR) Federal airways V–24, V–97, and V–171 due to the planned decommissioning of the VOR portion of the Lone Rock, WI (LNR), VOR/Distance Measuring Equipment (VOR/DME) navigation aid (NAVAID), which provides navigation guidance for portions of the affected air traffic service (ATS) routes. The Lone Rock VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before May 8, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0244; Airspace Docket No. 19–AGL–1 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with

prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the National Airspace System as necessary to preserve the safe and efficient flow of air traffic.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2020–0244; Airspace Docket No. 19–AGL–1) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0244; Airspace Docket No. 19–AGL–1.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Blvd., Fort Worth, TX, 76177.

Availability and Summary of Documents for Incorporation by Reference

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

Background

The FAA is planning to decommission the VOR portion of the Lone Rock, WI (LNR), VOR/DME in September 2020. The Lone Rock VOR was one of the candidate VORs identified for discontinuance by the FAA's VOR MON program and listed in the Final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the **Federal Register** of July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082. Although the VOR portion of the Lone Rock VOR/DME NAVAID is planned for decommissioning, the DME portion is being retained with the ''LNR'' identifier. The ATS routes affected by the Lone Rock VOR decommissioning are VOR Federal airways V–24, V–97, V–171, V–398, and V–411. However, changes to V–398 and V–411 are not addressed in this NPRM because proposed amendments contained in a previous NPRM published in the **Federal Register** of January 24, 2020 (85 FR 4245), Docket No. FAA–2020–0004, would remove the airway segments supported by the Lone Rock VOR in those airways.

With the planned decommissioning of the Lone Rock VOR, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of V–24, V–97, or V–171 within the affected area. As such, the proposed modification to V–24 would result in a second gap being created in the airway, to V–97 would result in an existing gap being expanded further, and to V–171 would result in a gap being created in the airway.

To overcome the proposed removal of the V–24, V–97, and V–171 airway segments, instrument flight rules (IFR) traffic could use adjacent VOR Federal airways, including V–82, V–100, V–129, V–170, V–228, V–503, and V–510, to circumnavigate the affected area. IFR traffic could also file point to point using the existing fixes that will remain in place or request air traffic control (ATC) radar vectors to continue operating though the affected area. Additionally, the FAA is retaining the Lone Rock DME facility in place with the same ''LNR'' identifier to support FAA NextGen flight procedures. Visual flight rules (VFR) pilots who elect to navigate via the airways through the affected area could also take advantage of the air traffic services previously listed.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend VOR Federal airways V–24, V–97, and V–171 due to the planned decommissioning of the VOR portion of the Lone Rock, WI, VOR/DME. The proposed VOR Federal airway actions are described below.

V–24: V–24 currently extends between the Aberdeen, SD, VOR/DME and Northbrook, IL, VOR/DME; and between the Peotone, IL, VOR/Tactical Air Navigation (VORTAC) and Brickyard, IN, VORTAC. The FAA proposes to remove the airway segment between the Rochester, MN, VOR/DME and the Janesville, WI, VOR/DME. The unaffected portions of the existing airway would remain as charted.

V–97: V–97 currently extends between the Dolphin, FL, VORTAC and the intersection of the Chicago Heights, IL, VORTAC 358° and DuPage, IL, 101° VOR/DME radials (NILES fix); and between the intersection of the DuPage, IL, VOR/DME 347° and Janesville, WI, VOR/DME 112° radials (KRENA fix) and Gopher, MN, VORTAC. The airspace below 2,000 feet MSL outside the United States is excluded. The FAA proposes to remove the airway segment between the intersection of the DuPage, IL, VOR/DME 347° and Janesville, WI, VOR/DME 112° radials (KRENA fix) and the Nodine, MN, VORTAC. The unaffected portions of the existing airway would remain as charted.

V–171: V–171 currently extends between the Lexington, KY, VOR/DME and Roseau, MN, VOR/DME. The FAA proposes to remove the airway segment between the Rockford, IL, VOR/DME

and the Nodine, MN, VORTAC. The unaffected portions of the existing airway would remain as charted.

All radials contained in the route descriptions below are unchanged and stated in True degrees.

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

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–24 [Amended]

From Aberdeen, SD; Watertown, SD; Redwood Falls, MN; to Rochester, MN. From Janesville, WI; INT Janesville 112° and Northbrook, IL, 291° radials; to Northbrook. From Peotone, IL; INT Peotone 152° and Brickyard, IN, 312° radials; to Brickyard.

* * * * *

V–97 [Amended]

From Dolphin, FL; La Belle, FL; St. Petersburg, FL; Seminole, FL; Pecan, GA; Atlanta, GA; INT Atlanta 001° and Volunteer, TN, 197° radials; Volunteer; London, KY; Lexington, KY; Cincinnati, KY; Shelbyville, IN; INT Shelbyville 313° and Boiler, IN, 136° radials; Boiler; Chicago Heights, IL; to INT Chicago Heights 358° and DuPage, IL, 101° radials. From Nodine, MN; to Gopher, MN. The airspace below 2,000 feet MSL outside the United States is excluded.

* * * * *

V–171 [Amended]

From Lexington, KY; INT Lexington 251° and Louisville, KY, 114° radials; Louisville; Terre Haute, IN; Danville, IL; Peotone, IL; INT Peotone 281° and Joliet, IL, 173° radials; Joliet; to Rockford, IL. From Nodine, MN; INT Nodine 298° and Farmington, MN, 124° radials; Farmington; Darwin, MN; Alexandria, MN; INT Alexandria 321° and Grand Forks, ND, 152° radials; Grand Forks; to Roseau, MN.

* * * * *

Issued in Washington, DC, on March 11, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–05865 Filed 3–23–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0186; Airspace Docket No. 19–ANE–5]

RIN 2120–AA66

Proposed Amendment and Establishment of Area Navigation (RNAV) Routes; Northeastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend low altitude RNAV route T–300, and establish low altitude RNAV routes T–391, T–393, and T–395 in the northeastern United States. The proposed changes would reduce the dependency of the National Airspace System (NAS) on ground-based navigational systems, and assist with the transition to a more efficient Performance Based Navigation (PBN) route structure. This proposal would also provide RNAV routing in support the FAA's VOR Minimum Operating Network (VOR MON) program.

DATES: Comments must be received on or before May 8, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527 or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0186; Airspace Docket No. 19–ANE–5 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would expand the availability of RNAV in the northeastern United States to improve the efficiency of the NAS by lessening the dependency on ground-based navigation aids.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2020–0186; Airspace Docket No. 19–ANE–5 and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0186; Airspace Docket No. 19–ANE–5.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM's

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend low altitude RNAV route T–300, and establish low altitude RNAV routes T–391, T–393, and T–395, in the northeastern United States. The purpose of the routes is to expand the availability of RNAV and improve the efficiency of the NAS by reducing the dependency on ground-based navigation systems. The proposed T-routes would provide RNAV capability in the northeast U.S. where certain VOR navigation aids are planned for decommissioning as part of the FAA's VOR MON program. The following is a general description of the proposed routes.

T–300: T–300 is an existing route that currently extends between the Albany, NY (ALB) VORTAC, and the Martha's Vineyard, MA (MVY) VOR/DME. The FAA is proposing to extend T–300 north of the Albany VORTAC to the SSENA, NY, waypoint (WP). The SSENA, NY, WP would be located in the vicinity of the Massena, NY (MSS), VORTAC which is planned for decommissioning at a later date. The following points would be inserted between the Albany VORTAC and the SSENA WP: OTOLE, NY, Fix; GASSY, NY, Fix; OPDIE, NY, WP; UUBER, NY, WP; JONNN, NY, Fix; and the STANK, NY, WP. T–300 would overlie VOR Federal airway V–203 between the Albany VORTAC, and the GASSY, NY, Fix. From that point, T–300 would be offset to the east of V–203, passing through the OPDIE, NY, WP; UUBER, NY, WP; JONNN, NY, Fix; and STANK, NY, WP, to the SSENA, NY, WP.

The FAA also proposes to remove the Norwich, CT (ORW), VOR/DME; the FALMA, RI, Fix; and the Martha's Vineyard, MA, VOR/DME from the T–300 route description. The Norwich VOR/DME would be replaced by the YANCT, CT, Fix which would be inserted in the route description between the NELLIE, CT, Fix, and the MINNK, RI, Fix. The YANCT WP would be located in the vicinity of the Norwich VOR/DME which is planned for decommissioning at a later date. Finally, the current T–300 route segment that extends between the MINNK, RI, Fix, and the Martha's Vineyard VOR/DME would be removed from the route and that end of the route would be realigned to proceed from the MINNK Fix southeastward to the NEWBE, RI, Fix, and the DEEPO, MA, fix.

T–391: T–391 is a proposed new route that would overlie VOR Federal airway V–29 between the TUMPS, NY, Fix, and the Massena, NY (MSS), VORTAC. T–391 would extend between the TUMPS Fix and the SSENA, NY, WP. The SSENA WP would be located in the vicinity of the Massena VORTAC, as described under T–300, above. T–391 would include following points between the TUMPS Fix and the SSENA WP: Syracuse, NY (SYR), VORTAC; PAGER, NY, Fix; BRUIN, NY, Fix; Watertown, NY (ART), VORTAC; WILRD, NY, Fix; and the LETUS, NY, Fix.

T–393: T–393 is a proposed new route that would overlie VOR Federal airway V–151 between the GAILS, MA, Fix, and the Burlington, VT (BTV) VOR/DME. The following points would be included between the GAILS Fix and the Burlington VOR/DME: INNDY, MA, Fix; Providence, RI (PVD) VOR/DME; FOSTY, RI, Fix; PUTNM, CT, WP; GRIPE, MA, Fix; Gardner, MA (GDM), VOR/DME; KEYNN, NH, WP; STRUM, NH, Fix; UNKER, NH, Fix; MCADM, NH, Fix; LBNON, NH, WP; ZIECH, VT,

Fix; DAVID, VT, Fix; Montpelier, VT (MPV), VOR/DME; CEVIB, VT, Fix; and the POROE, VT, Fix.

The PUTNM, CT WP would be located in the vicinity of the Putnam, CT (PUT), VOR/DME which is planned for decommissioning at a later date. The KEYNN, NH, WP would be located in the vicinity of the Keene, NH (EEN), VORTAC which is planned for decommissioning at a later date. The LBNON, NH, WP would be located in the vicinity of the Lebanon, NH (LEB), VOR/DME which is planned for decommissioning at a later date.

T–395: T–395 is a proposed new route that would overlie VOR Federal airway V–322 between the Concord, NH (CON), VOR/DME and the BRLIN, NH, WP. The BRLIN WP would be located in the vicinity of the Berlin, NH (BML), VOR/DME, which is planned for decommissioning at a later date. The following points would be included between the Concord VOR/DME and the BRLIN WP: YECKA, NH, Fix; GRUMP, NH, Fix; LAROE, NH, Fix; NOTTY, NH, Fix; WYLIE, ME, Fix; and the JOBBY, NH, Fix.

United States Area Navigation routes are published in paragraph 6011 of FAA Order 7400.2D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in the document would be subsequently published in the Order. FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–300 SSENA, NY to DEEPO, MA [Amended]

SSENA, NY	WP	(Lat. 44°54′51.43″ N, long. 074°43′21.31″ W)
STANK, NY	WP	(Lat. 44°47′00.00″ N, long. 074°07′00.00″ W)
JONNN, NY	FIX	(Lat. 44°34′13.71″ N, long. 074°01′38.96″ W)
UUBER, NY	WP	(Lat. 44°28′00.25″ N, long. 074°01′10.54″ W)
OPDIE, NY	WP	(Lat. 44°16′46.05″ N, long. 074°00′14.41″ W)
GASSY, NY	FIX	(Lat. 43°24′53.26″ N, long. 073°57′50.84″ W)
OTOLE, NY	FIX	(Lat. 42°56′58.56″ N, long. 073°51′05.77″ W)
Albany, NY (ALB)	VORTAC	(Lat. 42°44′50.21″ N, long. 073°48′11.47″ W)
NELIE, CT	FIX	(Lat. 41°56′27.64″ N, long. 072°41′18.88″ W)
YANTC, CT	WP	(Lat. 41°33′22.81″ N, long. 071°59′56.95″ W)
MINNK, RI	FIX	(Lat. 41°21′40.67″ N, long. 071°25′27.20″ W)
NEWBE, RI	FIX	(Lat. 41°12′24.39″ N, long. 071°04′26.92″ W)
DEEPO, MA	FIX	(Lat. 41°06′53.96″ N, long. 070°50′09.85″ W)

T–391 TUMPS, NY to SSENA, NY [New]

TUMPS, NY	FIX	(Lat. 43°01′18.27″ N, long. 076°10′04.09″ W)
Syracuse, NY (SYR)	VORTAC	(Lat. 43°09′37.87″ N, long. 076°12′16.41″ W)
PAGER, NY	FIX	(Lat. 43°25′25.64″ N, long. 076°09′30.34″ W)
BRUIN, NY	FIX	(Lat. 43°39′59.04″ N, long. 076°06′55.97″ W)
Watertown, NY (ART)	VORTAC	(Lat. 43°57′07.67″ N, long. 076°03′52.66″ W)
WILRD, NY	FIX	(Lat. 44°15′43.61″ N, long. 075°47′03.12″ W)
LETUS, NY	FIX	(Lat. 44°37′22.34″ N, long. 075°27′11.44″ W)
SSENA, NY	WP	(Lat. 44°54′51.43″ N, long. 074°43′21.31″ W)

T–393 GAILS, MA to Burlington, VT (BTV) [New]

GAILS, MA	FIX	(Lat. 41°52′08.51″ N, long. 070°24′07.69″ W)
INNDY, MA	FIX	(Lat. 41°46′19.19″ N, long. 071°05′55.93″ W)
Providence, RI (PVD)	VOR/DME	(Lat. 41°43′27.63″ N, long. 071°25′46.71″ W)
FOSTY, RI	FIX	(Lat. 41°50′35.46″ N, long. 071°38′31.34″ W)
PUTNM, CT	WP	(Lat. 41°57′19.65″ N, long. 071°50′38.76″ W)
GRIPE, MA	FIX	(Lat. 42°08′08.87″ N, long. 071°54′32.47″ W)
Gardner, MA (GDM)	VOR/DME	(Lat. 42°32′45.31″ N, long. 072°03′29.48″ W)
KEYNN, NH	WP	(Lat. 42°47′39.99″ N, long. 072°17′30.35″ W)
STRUM, NH	FIX	(Lat. 42°55′51.18″ N, long. 072°16′48.88″ W)
UNKER, NH	FIX	(Lat. 43°20′55.19″ N, long. 072°14′40.50″ W)
MCADM, NH	FIX	(Lat. 43°32′44.84″ N, long. 072°13′39.34″ W)

LBNON, NH	WP	(Lat. 43°40′44.43″ N, long. 072°12′58.18″ W)
ZIECH, VT	FIX	(Lat. 43°49′58.39″ N, long. 072°18′14.50″ W)
DAVID, VT	FIX	(Lat. 43°54′35.43″ N, long. 072°20′53.51″ W)
Montpelier, VT (MPV)	VOR/DME	(Lat. 44°05′07.74″ N, long. 072°26′57.76″ W)
CEVIB, VT	FIX	(Lat. 44°11′40.96″ N, long. 072°42′15.29″ W)
POROE, VT	FIX	(Lat. 44°13′28.02″ N, long. 072°46′26.54″ W)
Burlington, VT (BTV)	VOR/DME	(Lat. 44°23′49.58″ N, long. 073°10′57.48″ W)

T–395 Concord, NH (CON) to BRLIN, NH [New]

Concord, NH (CON)	VOR/DME	(Lat. 43°13′11.23″ N, long. 071°34′31.63″ W)
YECKA, NH	FIX	(Lat. 43°28′08.16″ N, long. 071°26′13.93″ W)
GRUMP, NH	FIX	(Lat. 43°33′05.83″ N, long. 071°23′27.86″ W)
LAROE, NH	FIX	(Lat. 43°44′58.72″ N, long. 071°16′47.95″ W)
NOTTY, NH	FIX	(Lat. 44°01′57.29″ N, long. 071°07′11.43″ W)
WYLIE, ME	FIX	(Lat. 44°14′36.30″ N, long. 070°59′57.84″ W)
JOBBY, NH	FIX	(Lat. 44°24′34.54″ N, long. 071°04′43.11″ W)
BRLIN, NH	WP	(Lat. 44°38′00.82″ N, long. 071°11′10.32″ W)

* * * * *

Issued in Washington, DC, on March 11, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–05864 Filed 3–23–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0188; Airspace Docket No. 20–ASO–9]

RIN 2120–AA66

Proposed Amendment of Air Traffic Service (ATS) Routes J–6, Q–68, V–5, V–49, V–243, and T–325 in the Vicinity of Bowling Green, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend one jet route, J–6; three VHF Omnidirectional Range (VOR) Federal airways, V–5, V–49, and V–243; and two area navigation (RNAV) routes, Q–68 and T–325. The FAA is proposing this action due to the planned decommissioning of the VOR portion of the Bowling Green, KY, VOR/Tactical Air Navigation (VORTAC) navigation aid (NAVAID). The Bowling Green VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before May 8, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0188; Airspace Docket No. 20–ASO–9 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2020–0188; Airspace Docket No. 20–ASO–9) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0188; Airspace Docket No. 20–ASO–9.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Blvd., Fort Worth, TX, 76177.

Availability and Summary of Documents for Incorporation by Reference

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

Background

The FAA is planning to decommission the VOR portion of the Bowling Green, KY (BWG), VORTAC in September 2020. The Bowling Green VOR was one of the candidate VORs identified for discontinuance by the FAA's VOR MON program and listed in the Final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the **Federal Register** of July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082. Although the VOR portion of the Bowling Green VORTAC NAVAID is planned for decommissioning, the DME portion is being retained with the ''BWG'' identifier. The air traffic service (ATS) routes affected by the Bowling Green VOR decommissioning are jet route J–6; VOR Federal airways V–5, V–49, and V–243; and RNAV route T–325.

With the planned decommissioning of the Bowling Green VOR, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of J–6, V–5, V–49, and V–243 within the affected area. As such, the proposed modifications to J–6 and V–5 would result in gaps in the ATS routes. The proposed modifications to V–49 and V–243 would result in the V–49 airway segment north of the Nashville, TN, VORTAC and the V–243 airway segment north of the Choo Choo, TN, VORTAC being removed.

To overcome the removal of the J–6, V–5, V–49, and V–243 route and airway segments, the FAA plans to retain the current fixes located along those route and airway segments to assist pilots and air traffic controllers already familiar with them, for navigation purposes. Additionally, the FAA proposes to extend RNAV route Q–68 between a new waypoint being established, named LITTR, near the Little Rock, AR, VORTAC and the Charleston, WV, VOR/Distance Measuring Equipment (VOR/DME) NAVAID to overlay the J–6 routing being removed. Lastly, the Bowling Green, KY, DME facility is planned to be retained and charted in its current location as a DME facility with the ''BWG'' identifier. As such, the FAA proposes to retain T–325 as it is charted today by changing the Bowling Green, KY, VORTAC route point to reflect the Bowling Green, KY, DME route point.

Instrument flight rules (IFR) traffic could use the extended Q–68 route segment in the enroute high altitude structure or existing adjacent ATS route segments (including V–4, V–11, V–47, V–51, V–140, V–513, and T–325) in the enroute low altitude structure, file point-to-point using the fixes that will remain in place, or receive air traffic control (ATC) radar vectors to continue operating through the affected area. Visual flight rules (VFR) pilots who elect to navigate via the airways through the affected area could also take advantage of the air traffic services previously listed.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to remove ATS route segments from J–6, V–5, V–49, and V–243; extend RNAV route Q–68 to overlay the J–6 routing being removed; and redefine the RNAV route T–325 Bowling Green, KY, VORTAC route point. This proposal would also correct the location for the Choo Choo VORTAC to read Tennessee (TN). The planned decommissioning of the VOR portion of the Bowling Green, KY, VORTAC has made this action necessary. The proposed ATS route actions are described below.

J–6: J–6 currently extends between the Salinas, CA, VORTAC and the Albany, NY, VORTAC. The FAA proposes to remove the route segment between the Little Rock, AR, VORTAC and the Charleston, WV, VOR/DME. The unaffected portions of the existing route would remain as charted.

Q–68: Q–68 currently extends between the Charleston, WV, VOR/DME and the OTTTO, VA, waypoint located near the Linden, VA, VORTAC. The FAA proposes to extend the route westward from the Charleston, WV, VOR/DME to a new waypoint, named LITTR, being established near the Little Rock, AR, VORTAC to overlay the J–6 routing proposed to be removed. The unaffected portions of the existing route would remain as charted.

V–5: V–5 currently extends between the Pecan, GA, VOR/DME and the Appleton, OH, VORTAC. The FAA proposes to remove the airway segment between the Choo Choo, TN, VORTAC and the New Hope, KY, VOR/DME. The unaffected portions of the existing airway would remain as charted.

V–49: V–49 currently extends between the Vulcan, AL, VORTAC and the Mystic, KY, VOR. The FAA proposes to remove the airway segment between the Nashville, TN, VORTAC and the Mystic, KY, VOR. The unaffected portions of the existing airway would remain as charted.

V–243: V–243 currently extends between the Craig, FL, VORTAC and the Bowling Green, KY, VORTAC. The FAA proposes to remove the airway segment between the Choo Choo, TN, VORTAC and the Bowling Green, KY, VORTAC. The unaffected portions of the existing airway would remain as charted.

T–325: T–325 currently extends between the Bowling Green, KY, VORTAC and the Terre Haute, IN, VORTAC. The FAA proposes to change the Bowling Green, KY (BWG), route point from being listed as a ''VORTAC'' to a ''DME''. Additionally, the Bowling Green, KY, ''BWG'' identifier and Terre Haute, IN, ''TTH'' identifier are added to the first line of the route description and the geographic coordinates of each route point are updated to be expressed in degrees, minutes, seconds, and hundredths of a second. The existing RNAV route would remain as charted.

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

Jet routes are published in paragraph 2004, RNAV Q-routes are published in paragraph 2006, VOR Federal airways are published in paragraph 6010(a), and RNAV T-routes are published in paragraph 6011 of FAA Order 7400.11D dated August 8, 2019, and effective

September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The ATS routes listed in this document would be subsequently published in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2004 Jet Routes.

* * * * *

J–6 [Amended]

From Salinas, CA; INT Salinas 145° and Avenal, CA, 292° radials; Avenal; INT Avenal 119° and Palmdale, CA, 310° radials; Palmdale; Hector, CA; Needles, CA; Drake, AZ; Zuni, AZ; Albuquerque, NM; Tucumcari, NM; Panhandle, TX; Will Rogers, OK; to Little Rock, AR. From Charleston, WV; INT Charleston 076° and Martinsburg, WV, 243° radials; Martinsburg; Lancaster, PA; Broadway, NJ; Sparta, NJ; to Albany, NY.

* * * * *

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–68 LITTR, AR to OTTTO, VA [Amended]

LITTR, AR	WP	(Lat. 34°40′39.90″ N, long. 092°10′49.26″ W)
SOPIE, TN	FIX	(Lat. 36°08′37.48″ N, long. 088°33′47.95″ W)
Bowling Green, KY	DME	(Lat. 36°55′43.47″ N, long. 086°26′36.36″ W)
YOCKY, KY	FIX	(Lat. 37°39′14.79″ N, long. 084°09′22.45″ W)
SPAYD, WV	FIX	(Lat. 38°11′36.56″ N, long. 082°19′28.69″ W)
CHARLESTON, WV (HVQ)	VOR/DME	(Lat. 38°20′58.83″ N, long. 081°46′11.69″ W)
TOMCA, WV	WP	(Lat. 38°34′42.49″ N, long. 080°36′41.09″ W)
RONZZ, WV	WP	(Lat. 38°33′16.08″ N, long. 080°07′56.63″ W)
HHOLZ, WV	WP	(Lat. 38°38′01.96″ N, long. 079°41′33.22″ W)
CAPOE, VA	WP	(Lat. 38°51′13.13″ N, long. 078°22′27.45″ W)
OTTTO, VA	WP	(Lat. 38°51′15.81″ N, long. 078°12′20.01″ W)

* * * * *

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–5 [Amended]

From Pecan, GA; Vienna, GA; Dublin, GA; Athens, GA; INT Athens 340° and Electric City, SC, 274° radials; INT Electric City 274° and Choo Choo, TN, 127° radials; to Choo Choo. From New Hope, KY; Louisville, KY; Cincinnati, OH; to Appleton, OH.

* * * * *

V–49 [Amended]

From Vulcan, AL; Decatur, AL; to Nashville, TN.

* * * * *

V–243 [Amended]

From Craig, FL; Waycross, GA; Vienna, GA; LaGrange, GA; INT LaGrange 342° and Choo Choo, TN, 189° radials; to Choo Choo.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–325 Bowling Green, KY (BWG) to Terre Haute, IN (TTH) [Amended]

Bowling Green, KY (BWG)	DME	(Lat. 36°55′43.47″ N, long. 086°26′36.36″ W)
RENRO, KY	WP	(Lat. 37°28′50.53″ N, long. 086°39′19.25″ W)
LOONE, KY	WP	(Lat. 37°44′14.43″ N, long. 086°45′18.02″ W)
APALO, IN	WP	(Lat. 38°00′20.59″ N, long. 086°51′35.27″ W)
BUNKA, IN	WP	(Lat. 39°04′57.32″ N, long. 087°09′06.58″ W)
Terre Haute, IN (TTH)	VORTAC	(Lat. 39°29′20.19″ N, long. 087°14′56.45″ W)

* * * * *

Issued in Washington, DC, on March 11, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–05863 Filed 3–23–20; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2020–0079; FRL–10006–51–Region 9]

Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_X) and particulate matter (PM) from off-road mobile, diesel agricultural equipment. We are proposing to approve a local measure to reduce NO_X and PM emissions from these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by April 23, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2020–0079 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Rynda Kay, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4118, *kay.rynda@epa.gov.*

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

Table of Contents

I. The State's Submittal

A. What measure did the State submit?

Table 1 lists the measure addressed by this proposal with the date that it was adopted by the California Air Resources Board (CARB). We refer to this measure as the ''Valley Incentive Measure.''

TABLE 1—SUBMITTED MEASURE

Agency	Resolution No.	Measure title	Adopted	Submitted
CARB	19–26	''San Joaquin Valley Agricultural Equipment Incentive Measure,'' as amended by ''Additional Clarifying Information for the San Joaquin Valley Agricultural Equipment Incentive Measure.''	12/12/19	02/11/20

We find that the submittal for the Valley Incentive Measure meets the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this measure?

There are no previous versions of the Valley Incentive Measure in the SIP.

C. What is the purpose of the submitted measure?

Emissions of NO_X contribute to ground-level ozone, smog and particular matter, which harm human health and the environment. Emissions of PM, including PM equal to or less than 2.5 microns in diameter ($PM_{2.5}$) and PM equal to or less than 10 microns in diameter (PM_{10}), contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. The CAA generally requires states to submit control measures to reduce NO_X and PM emissions.

The San Joaquin Valley is designated and classified as a Serious nonattainment area for the 1997 annual and 24-hour $PM_{2.5}$ standards and the 2006 24-hour $PM_{2.5}$ standards, and designated and classified as a Moderate nonattainment area for the 2012 annual $PM_{2.5}$ standard.[1] On May 10, 2019, CARB submitted the ''2018 Plan for the 1997, 2006, and 2012 $PM_{2.5}$ Standards,'' adopted November 15, 2018 (''2018 $PM_{2.5}$ Plan'') and the ''San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan,'' adopted October 25, 2018 (''Valley State SIP Strategy''), which contain, inter alia, a request to extend the attainment deadline for the 2006 $PM_{2.5}$ standards from 2019 to 2024 in the San Joaquin Valley and commitments to achieve specific amounts of $PM_{2.5}$ and NO_X emission reductions by 2024 and 2025 toward attainment requirements for the 2006 24-hour and the 2012 annual $PM_{2.5}$ standards, respectively.[2]

The Valley Incentive Measure contains a set of enforceable commitments by CARB to monitor, assess, and regularly report on emission reductions from off-road mobile, diesel agricultural equipment replacement

[1] 40 CFR 81.305.

[2] 2018 $PM_{2.5}$ Plan, 6–2.

projects implemented through CARB's Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer), the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) Environmental Quality Incentives Program (EQIP), and CARB's Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program, according to specific guidelines and/or program criteria. These program requirements ensure, among other things, that older, dirtier agricultural equipment currently in operation in the San Joaquin Valley will be replaced with less-polluting equipment.

The Valley Incentive Measure obligates CARB to achieve specific amounts of NO_X and $PM_{2.5}$ emission reductions through implementation of these programs by specific years, to submit annual reports to the EPA beginning on May 15, 2021, detailing the implementation of specific projects and the projected emission reductions, and to adopt and submit substitute measures by specific dates if the EPA determines that the identified projects will not achieve the necessary emission reductions by the applicable implementation deadlines. The Valley Incentive Measure includes technical corrections and clarifications to the Board resolution adopting the measure, which are described in a document entitled ''Additional Clarifying Information for the San Joaquin Valley Agricultural Equipment Incentive Measure.''

We are proposing to approve the Valley Incentive Measure into the California SIP and to make the State commitments contained therein enforceable by the EPA and by citizens under the CAA. The State relies on the Valley Incentive Measure to achieve 5.9 tpd of NO_X and 0.3 tpd $PM_{2.5}$ emission reductions in 2024 and 5.1 tpd of NO_X and 0.3 tpd $PM_{2.5}$ emission reductions in 2025 for purposes of meeting the requirements for attainment of the 2006 and 2012 $PM_{2.5}$ NAAQS. We intend to evaluate CARB's submitted plans to provide for attainment of the $PM_{2.5}$ NAAQS in the San Joaquin Valley through subsequent notice-and-comment rulemaking actions, as appropriate. The EPA's technical support document (TSD) has more information about this measure.

II. The EPA's Evaluation and Proposed Action

A. How is the EPA evaluating the measure?

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

The CAA explicitly provides for the use of economic incentive programs (EIPs) as one tool for states to use to achieve attainment of the NAAQS.[3] EIPs use market-based strategies to encourage the reduction of emissions from stationary, area, and mobile sources in an efficient manner. EPA has promulgated regulations for statutory EIPs required under section 182(g) of the Act and has issued guidance for discretionary EIPs.[4]

The EPA's guidance documents addressing EIPs and other nontraditional programs provide for some flexibility in meeting established SIP requirements for enforceability and quantification of emission reductions, provided the State takes clear responsibility for ensuring that the emission reductions necessary to meet applicable CAA requirements are achieved. Accordingly, the EPA has consistently stated that nontraditional emission reduction measures submitted to satisfy SIP requirements under the Act must be accompanied by appropriate ''enforceable commitments'' from the State to monitor emission reductions achieved and to rectify shortfalls in a timely manner.[5] The EPA has also consistently stated that, where a state intends to rely on a nontraditional program to satisfy CAA requirements, the state must demonstrate that the program achieves emission reductions that are quantifiable, surplus, enforceable, and permanent.[6]

Guidance documents that we use to evaluate discretionary EIPs and other nontraditional emission reduction programs include the following:

- ''Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs),'' Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, October 24, 1997 (''1997 VMEP'').
- ''Improving Air Quality with Economic Incentive Programs'' January 2001 (EPA–452/R- 01–001) (''2001 EIP Guidance'').
- ''Incorporating Emerging and Voluntary Measure in a State Implementation Plan (SIP),'' Stephen D. Page, OAQPS, October 4, 2004 (''2004 Emerging and Voluntary Measures Guidance'').
- ''Guidance on Incorporating Bundled Measures in a State Implementation Plan,'' Stephen D. Page, OAQPS, and Margo Oge, OTAQ, August 16, 2005 (''2005 Bundled Measures Guidance'').
- ''Diesel Retrofits: Quantifying and Using Their Emission Benefits in SIPs and Conformity: Guidance for State and Local Air and Transportation Agencies,'' March 2018 (EPA–420–B–18–017) (''2018 Diesel Retrofits Guidance'').

B. Does the measure meet the evaluation criteria?

The Valley Incentive Measure contains clear, mandatory obligations that are enforceable against CARB and ensure that information about the emission reductions achieved through the identified incentive programs will be readily available to the public through CARB's submission of annual demonstration reports to the EPA. Our approval of the Valley Incentive Measure would make these obligations enforceable by the EPA and by citizens under the CAA. The Valley Incentive Measure obligates the State to monitor implementation of specific projects in accordance with the identified programs to ensure that these projects achieve quantifiable, surplus, permanent, and enforceable NO_X and $PM_{2.5}$ emission reductions. The Valley Incentive Measure does not alter any existing SIP requirements. Our approval of this measure would strengthen the SIP and would not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements, consistent with the requirements of CAA section 110(l). Section 193 of the CAA does not apply

[3] See, *e.g.,* CAA sections 110(a)(2)(A), 172(c)(6), and 183(e)(4).

[4] 59 FR 16690 (April 7, 1994), codified at 40 CFR part 51, subpart U and EPA, ''Improving Air Quality with Economic Incentive Programs,'' January 2001 (''2001 EIP Guidance''). A ''discretionary economic incentive program'' is ''any EIP submitted to the EPA as an implementation plan revision for purposes other than to comply with the statutory requirements of sections 182(g)(3), 182(g)(5), 187(d)(3), or 187(g) of the Act.'' 40 CFR 51.491.

[5] See, *e.g.,* EPA, ''Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs),'' Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, October 24, 1997 (''1997 VMEP''), 4–5.

[6] See, *e.g.,* 2001 EIP Guidance, section 4.1.

to this action because this measure does not modify any SIP control requirement that was in effect before November 15, 1990.

We are proposing to find that the Valley Incentive Measure satisfies CAA requirements for enforceability, SIP revisions, and nontraditional emission reduction programs as interpreted in EPA guidance documents. The TSD contains more information on our evaluation of this measure.

C. Proposed Action and Request for Public Comment

The EPA proposes to fully approve the submitted measure under CAA section 110(k)(3) based on a conclusion that the measure satisfies all applicable requirements. We will accept comments from the public on this proposal until April 23, 2020. If we take final action to approve the submitted measure, our final action will incorporate this measure into the federally enforceable SIP.

III. Incorporation by Reference

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

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: March 16, 2020.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2020–05985 Filed 3–23–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2019–0699; FRL–10006–84–Region 5]

Air Plan Approval; Wisconsin; Second Maintenance Plan for 1997 Ozone NAAQS; Door County, Kewaunee County, Manitowoc County and Milwaukee-Racine Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Wisconsin State Implementation Plan (SIP). On December 13, 2019, the Wisconsin Department of Natural Resources (WDNR) submitted the state's plans for maintaining the 1997 ozone National Ambient Air Quality Standard (NAAQS or standard) in the following areas: Kewaunee County, Door County, Manitowoc County, and Milwaukee-Racine area (Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha counties). EPA is proposing to approve these maintenance plans because they provide for the maintenance of the 1997 ozone NAAQS through the end of the second 10-year maintenance period. This action, when finalized, would make certain commitments related to maintenance of the 1997 ozone NAAQS in these areas federally enforceable as part of the Wisconsin SIP.

DATES: Written comments must be received at the address below on or before April 23, 2020.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R05–OAR–2019–0699 at *https://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,*

on the web, cloud, or other file sharing system). For additional submission methods, please contact Emily Crispell, (312) 353–8512, *crispell.emily@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Emily Crispell, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8512, *crispell.emily@epa.gov.*

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

Table of Contents

I. Summary of EPA's Proposed Action

EPA is proposing to approve, as a revision to the Wisconsin SIP, the 1997 ozone NAAQS maintenance plans for the Door County, Kewaunee County, Manitowoc County, and Milwaukee-Racine areas. The maintenance plans are designed to keep the Kewaunee County area in attainment of the 1997 ozone NAAQS through 2028, the Door County and Manitowoc County areas in attainment through 2030, and the Milwaukee-Racine area in attainment through 2032.

II. Background

Ground-level ozone is formed when oxides of nitrogen (NO_X) and volatile organic compounds (VOC) react in the presence of sunlight. These two pollutants are referred to as ozone precursors. Scientific evidence indicates that adverse public health effects occur following exposure to ozone.

In 1979, under section 109 of the Clean Air Act (CAA), EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997, EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. 62 FR 38856 (July 18, 1997).[1] EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23857), EPA designated Kewaunee County, Door County, Manitowoc County, and the Milwaukee-Racine area as nonattainment for the 1997 ozone NAAQS, and the designations became effective on June 15, 2004. Under the CAA, states are also required to adopt and submit SIPs to implement, maintain, and enforce the NAAQS in designated nonattainment areas and throughout the state.

When a nonattainment area has three years of complete, certified air quality data that has been determined to attain the 1997 ozone NAAQS, and the area has met other required criteria described in section 107(d)(3)(E) of the CAA, the state can submit to EPA a request to be redesignated to attainment, referred to as a ''maintenance area''.[2] One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance and such contingency provisions as necessary to assure that violations of the standard will be promptly corrected. At the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years. CAA section 175A.

EPA has published long-standing guidance for states on developing maintenance plans.[3] The Calcagni Memorandum provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.,* attainment year inventory). *See* Calcagni Memorandum at 9.

On June 12, 2007, WDNR submitted a request to EPA to redesignate Kewaunee County to attainment for the 1997 ozone NAAQS. This submittal included a plan to maintain the 1997 ozone NAAQS in Kewaunee County through 2018 as a revision to the Wisconsin SIP. EPA approved the Kewaunee County maintenance plan and the state's request to redesignate the area to attainment for the 1997 ozone NAAQS on May 21, 2008 (73 FR 29436).

On September 11, 2009, WDNR submitted a request to redesignate Door County and Manitowoc County to attainment for the 1997 ozone NAAQS. This submittal included a plan to maintain the 1997 ozone NAAQS in Door County and Manitowoc County through 2020 as a revision to the Wisconsin SIP. EPA approved the Door County and Manitowoc County maintenance plans and the state's request to redesignate the areas to attainment for the 1997 ozone NAAQS on July 12, 2010 (75 FR 39635).

On September 11, 2009, WDNR submitted a request to redesignate the Milwaukee-Racine area to attainment for the 1997 ozone NAAQS.[4] This submittal included a plan to maintain the 1997 ozone NAAQS in the Milwaukee-Racine area through 2022 as a revision to the Wisconsin SIP. EPA approved the Milwaukee-Racine area maintenance plan and the state's request to redesignate the area to attainment for the 1997 ozone NAAQS on July 31, 2012 (77 FR 45252).

Under CAA section 175A(b), states must submit a revision to the first maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for ten additional years following the end of the first 10-year period. EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and stated that one

[1] In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

[2] Section 107(d)(3)(E) of the CAA sets out the requirements for redesignation. They include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

[3] ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the ''Calcagni Memorandum'').

[4] WDNR supplemented the submittal on November 16, 2011.

consequence of revocation was that areas that had been redesignated to attainment (*i.e.,* maintenance areas) for the 1997 standard no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).[5] In *South Coast Air Quality Management District* v. *EPA* (South Coast II), the D.C. Circuit vacated EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for ''orphan maintenance areas,'' *i.e.,* areas designated attainment for the 2008 NAAQS but nonattainment for the 1997 NAAQS. *South Coast,* 882 F.3d 1138 (D.C. Cir. 2018). Thus, states with these ''orphan maintenance areas'' under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period. Accordingly, on December 13, 2019, WDNR submitted a second maintenance plan which shows attainment of the 1997 ozone NAAQS for: Kewaunee County through 2028; Door County and Manitowoc County through 2030; and the Milwaukee-Racine area through 2032, *i.e.,* through the end of the full 20-year maintenance period for each of the areas.

III. EPA's Evaluation of WDNR's SIP Submittal

A. Second Maintenance Plan

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.

On December 13, 2019, WDNR submitted, as a SIP revision, plans to provide for maintenance of the 1997 ozone standard in: The Kewaunee County area through 2028, the Door County and Manitowoc County areas through 2030, and the Milwaukee-Racine area through 2032, each respectively more than 20 years after the effective date of the redesignation to attainment. As discussed below, EPA proposes to find that WDNR's second maintenance plans include the necessary components and to approve the maintenance plans as revisions to the Wisconsin SIP.

1. Attainment Inventory

a. Kewaunee County

The CAA section 175A maintenance plan approved by EPA for the first 10-year period included an attainment inventory for the Kewaunee County area that reflects typical summer day VOC and NO_X emissions in 2005. This inventory is summarized in Table 1 below.

TABLE 1—KEWAUNEE COUNTY TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2005 IN TONS PER DAY

[tpd]

Source category	VOC	NO_X
Nonroad	1.6	1.7
Onroad	0.6	1.2
Point	0.2	0.01
Area	1.3	0.1
Total	3.7	3.0

In addition, because the Kewaunee County area continued to monitor attainment of the 1997 ozone NAAQS in 2014, this is also an appropriate year to use for an attainment year inventory. WDNR is using 2014 summer day emissions from the EPA 2014 version 7.0 modeling platform as the basis for the attainment inventory presented in Table 2 below.[6] These data are based on the most recently available National Emissions Inventory (2014 NEI version 2).

TABLE 2—KEWAUNEE COUNTY TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2014

[tpd]

Source category	VOC	NO_X
Nonroad	1.01	0.91
Onroad	0.48	0.91
Point	0.16	0.14
Area	0.90	0.65
Total	2.54	2.61

[5] *See* 80 FR 12315 (March 6, 2015).

[6] The inventory documentation for this platform can be found here: *https://www.epa.gov/air-emissions-modeling/2014-version-70-platform.*

b. Door County and Manitowoc County

The CAA section 175A maintenance plan approved by EPA for the first 10-year period included an attainment inventory for the Door County and Manitowoc County areas that reflects typical summer day VOC and NO_X emissions in 2007. This inventory is summarized in Table 3 below.

TABLE 3—DOOR COUNTY AND MANITOWOC COUNTY TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2007 IN TONS PER DAY

[tpd]

Source category	Door county		Manitowoc county	
	VOC	NO_X	VOC	NO_X
Nonroad	8.85	5.28	3.15	3.61
Onroad	0.93	1.97	2.24	5.38
Point	0.30	0.002	1.43	3.13
Area	1.51	0.20	4.39	0.43
Total	11.59	7.452	11.21	12.55

In addition, because the Door County and Manitowoc County areas continued to monitor attainment of the 1997 ozone NAAQS in 2014, this is also an appropriate year to use for an attainment year inventory. WDNR is using 2014 summer day emissions from the EPA 2014 version 7.0 modeling platform as the basis for the attainment inventory presented in Table 4 below.[7] These data are based on the most recently available National Emissions Inventory (2014 NEI version 2).

TABLE 4—DOOR COUNTY AND MANITOWOC COUNTY TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2014

[tpd]

Source category	Door county		Manitowoc county	
	VOC	NO_X	VOC	NO_X
Nonroad	5.82	3.53	1.91	2.00
Onroad	0.91	1.70	1.78	3.83
Point	0.22	0.02	1.27	2.23
Area	1.17	1.97	3.23	1.74
Total	8.12	7.23	8.2	9.80

c. Milwaukee-Racine Area

The CAA section 175A maintenance plan approved by EPA for the first 10-year period included an attainment inventory for the Milwaukee-Racine area that reflects typical summer day VOC and NO_X emissions in 2008. This inventory is summarized in Tables 5 and 6 below.

TABLE 5—MILWAUKEE-RACINE AREA TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2008 IN TONS PER DAY

[tpd]

Source category	Milwaukee-Racine area	
	VOC	NO_X
Nonroad	50.02	45.34
Onroad	36.35	92.74
Point	12.17	39.16
Area	57.22	14.76
Total	155.76	192.00

[7] The inventory documentation for this platform can be found here: *https://www.epa.gov/air-emissions-modeling/2014-version-70-platform.*

TABLE 6—MILWAUKEE-RACINE AREA TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS BY COUNTY FOR ATTAINMENT YEAR 2008

[tpd]

Source category	Kenosha county		Milwaukee county		Ozaukee county		Racine county		Washington county		Waukesha county	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Nonroad	4.57	3.94	12.90	15.83	2.17	4.66	6.23	4.99	5.39	4.10	18.76	11.82
Onroad	3.05	7.52	16.05	41.68	2.13	5.47	3.51	8.79	2.97	7.62	8.64	21.66
Point	1.33	8.56	5.52	26.91	0.42	0.73	1.41	1.13	0.49	0.26	3.00	1.57
Area	3.39	0.76	21.19	6.85	3.99	0.89	6.17	1.27	9.97	1.23	12.51	3.76
Total	12.34	20.78	55.66	91.27	8.71	11.75	17.32	16.18	18.82	13.21	42.91	38.81

In addition, because the Milwaukee-Racine area continued to monitor attainment of the 1997 ozone NAAQS in 2014, this is also an appropriate year to use for an attainment year inventory. WDNR is using 2014 summer day emissions from the EPA 2014 version 7.0 modeling platform as the basis for the attainment inventory presented in Tables 7 and 8 below.[8] These data are based on the most recently available National Emissions Inventory (2014 NEI version 2).

TABLE 7—MILWAUKEE-RACINE AREA TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2014

[tpd]

Source category	Milwaukee-Racine area	
	VOC	NO_X
Nonroad	26.87	24.36
Onroad	26.60	55.87
Point	10.33	28.90
Area	53.28	20.97
Total	117.08	130.09

TABLE 8—MILWAUKEE-RACINE AREA TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS BY COUNTY FOR ATTAINMENT YEAR 2014

[tpd]

Source category	Kenosha county		Milwaukee county		Ozaukee county		Racine county		Washington county		Waukesha county	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Nonroad	2.48	2.06	6.72	7.55	1.23	2.94	3.34	2.69	2.96	2.13	10.14	7.00
Onroad	2.33	4.80	11.40	23.70	1.55	3.36	2.57	5.44	2.37	5.49	6.39	13.09
Point	0.53	7.89	5.10	17.66	0.34	0.89	1.20	0.77	0.77	0.39	2.39	1.30
Area	4.29	2.15	24.08	8.30	2.28	1.34	5.71	2.75	4.26	1.72	12.66	4.72
Total	9.63	16.89	47.30	57.20	5.40	8.53	12.81	11.65	10.37	9.72	31.57	26.10

2. Maintenance Demonstration

a. Kewaunee County

WDNR is demonstrating maintenance through 2028 for the Kewaunee County area by showing that future emissions of VOC and NO_X remain at or below attainment year emission levels. 2028 is an appropriate maintenance year for Kewaunee County because it is more than 10 years beyond the first 10-year maintenance period. The 2028 emissions inventory is projected from the EPA 2011 version 6.3 modeling platform.[9] The relevant inventory scenario names are ''2014fd'' and ''2028el.'' The 2028 scenario was used in past air quality modeling for the regional haze program. The 2028 summer day emissions inventory for Kewaunee County is summarized in Table 9 below. Table 10 documents changes in NO_X and VOC emissions in Kewaunee County between 2005, 2014 and 2028.

TABLE 9—KEWAUNEE COUNTY TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR MAINTENANCE YEAR 2028

[tpd]

Source category	VOC	NO_X
Nonroad	0.47	0.49
Onroad	0.14	0.19
Point	0.18	0.11

[8] The inventory documentation for this platform can be found here: *https://www.epa.gov/air-emissions-modeling/2014-version-70-platform.*

[9] The inventory documentation for this platform can be found here: *https://www.epa.gov/air-emissions-modeling/2011-version-63-platform.*

TABLE 9—KEWAUNEE COUNTY TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR MAINTENANCE YEAR 2028—Continued

[tpd]

Source category	VOC	NO_X
Area	1.00	0.10
Total	1.78	0.89

TABLE 10—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS IN KEWAUNEE COUNTY BETWEEN 2005, 2014, AND 2028

[tpd]

Source category	VOC					NO_X				
	2005	2014	2028	Net change (2005–2028)	Net change (2014–2028)	2005	2014	2028	Net change (2005–2028)	Net change (2014–2028)
Nonroad	1.6	1.01	0.47	−1.13	−0.54	1.7	0.91	0.49	−1.21	−0.42
Onroad	0.6	0.48	0.14	−0.46	−0.34	1.2	0.91	0.19	−1.01	−0.72
Point	0.2	0.16	0.18	−0.02	0.02	0.01	0.14	0.11	0.1	−0.03
Area	1.3	0.90	1.00	−0.3	0.1	0.1	0.65	0.10	0	−0.55
Total	3.7	2.54	1.78	−1.92	−0.76	3.0	2.61	0.89	−2.11	−1.72

In summary, the maintenance demonstration for the Kewaunee County area shows maintenance of the 1997 ozone standard by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 10 shows that VOC and NO_X emissions in Kewaunee County are projected to decrease by 0.76 tpd and 1.72 tpd, respectively, between 2014 and 2028.

b. Door and Manitowoc

WDNR is demonstrating maintenance through 2030 for the Door County and Manitowoc County areas by showing that future emissions of VOC and NO_X remain at or below attainment year emission levels. 2030 is an appropriate maintenance year for the Door County and Manitowoc County areas because it is more than 10 years beyond the first 10-year maintenance period. The 2030 emissions inventory is projected from the EPA 2011 version 6.3 modeling platform.[10] The relevant inventory scenario names are ''2014fd'' and ''2028el.'' The 2028 scenario was used in past air quality modeling for the regional haze program. WDNR projected emissions from 2028 to 2030 for the Door County and Manitowoc County areas based on EPA's 2028 emission inventory projections from EPA's 6.3 modeling platform. WDNR projected that emissions for 2030 would remain at 2028 levels for the Door County and Manitowoc County areas. WDNR's approach is conservative as emissions are expected to further decrease from 2028 to 2030 due to decreases in mobile source emissions through continued implementation of vehicle emissions standard and vehicle fleet turn over. The 2030 summer day emissions inventory for the Door County and Manitowoc County areas are summarized in Table 11 below. Tables 12 and 13 document changes in NO_X and VOC emissions in Door County and Manitowoc County between 2007, 2014 and 2030.

TABLE 11—DOOR COUNTY AND MANITOWOC COUNTY TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR MAINTENANCE YEAR 2030

[tpd]

Source category	Door county		Manitowoc county	
	VOC	NO_X	VOC	NO_X
Nonroad	2.70	2.45	1.05	1.10
Onroad	0.28	0.39	0.65	1.39
Point	0.13	0.01	1.46	2.34
Area	1.39	0.25	3.89	0.54
Total	4.50	3.09	7.04	5.36

[10] The inventory documentation for this platform can be found here: *https://www.epa.gov/air-emissions-modeling/2011-version-63-platform.*

TABLE 12—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS IN DOOR COUNTY BETWEEN 2007, 2014, AND 2030

[tpd]

Source category	Door county									
	VOC					NO_X				
	2007	2014	2030	Net change (2007–2030)	Net change (2014–2030)	2007	2014	2030	Net change (2007–2030)	Net change (2014–2030)
Nonroad	8.85	5.82	2.7	−6.15	−3.12	5.28	3.53	2.45	−2.83	−1.08
Onroad	0.93	0.91	0.28	−0.65	−0.63	1.97	1.7	0.39	−1.58	−1.31
Point	0.3	0.22	0.13	−0.17	−0.09	0.002	0.02	0.01	0.008	−0.01
Area	1.51	1.17	1.39	−0.12	0.22	0.2	1.97	0.25	0.05	−1.72
Total	11.59	8.12	4.5	−7.09	−3.62	7.452	7.23	3.09	−4.362	−4.14

TABLE 13—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS IN MANITOWOC COUNTY BETWEEN 2007, 2014, AND 2030

[tpd]

Source category	Manitowoc county									
	VOC					NO_X				
	2007	2014	2030	Net change (2007–2030)	Net change (2014–2030)	2007	2014	2030	Net change (2007–2030)	Net change (2014–2030)
Nonroad	3.15	1.91	1.05	−2.1	−0.86	3.61	2	1.1	−2.51	−0.9
Onroad	2.24	1.78	0.65	−1.59	−1.13	5.38	3.83	1.39	−3.99	−2.44
Point	1.43	1.27	1.46	0.03	0.19	3.13	2.23	2.34	−0.79	0.11
Area	4.39	3.23	3.89	−0.5	0.66	0.43	1.74	0.54	0.11	−1.2
Total	11.21	8.2	7.04	−4.17	−1.16	12.55	9.8	5.36	−7.19	−4.44

In summary, the maintenance demonstration for the Door County and Manitowoc County areas shows maintenance of the 1997 ozone standard by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 12 shows VOC and NO_X emissions in Door County are projected to decrease by 3.62 tpd and 4.14 tpd, respectively, between 2014 and 2030. Table 13 shows VOC and NO_X emissions in Manitowoc County are projected to decrease by 1.16 tpd and 4.44 tpd, respectively, between 2014 and 2030.

c. Milwaukee-Racine Area

WDNR is demonstrating maintenance through 2032 for the Milwaukee-Racine area by showing that future emissions of VOC and NO_X remain at or below attainment year emission levels. 2032 is an appropriate maintenance year for the Milwaukee-Racine area because it is more than 10 years beyond the first 10-year maintenance period. The 2028 emissions inventory is projected from the EPA 2011 version 6.3 modeling platform.[11] The relevant inventory scenario names are ''2014fd'' and ''2028el.'' The 2028 scenario was used in past air quality modeling for the regional haze program. WDNR projected emissions from 2028 to 2032 for Milwaukee-Racine area based on EPA's 2028 emission inventory projections from EPA's 6.3 modeling platform. WDNR projected that emissions for 2032 would remain at 2028 levels for Milwaukee-Racine area. WDNR's approach is conservative as emissions are expected to further decrease from 2028 to 2032 due to decreases in mobile source emissions through continued implementation of vehicle emissions standard and vehicle fleet turn over. The 2032 summer day emissions inventory for the Milwaukee-Racine area is summarized in Tables 14 and 15 below. Table 16 documents changes in NO_X and VOC emissions in the Milwaukee-Racine area between 2008, 2014 and 2032.

TABLE 14—MILWAUKEE-RACINE AREA TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS FOR MAINTENANCE YEAR 2032

[tpd]

Source category	Milwaukee-Racine area	
	VOC	NO_X
Nonroad	18.44	13.93
Onroad	9.98	19.52
Point	9.69	17.80
Area	52.70	15.16
Total	90.81	66.41

[11] The inventory documentation for this platform can be found here: *https://www.epa.gov/air-emissions-modeling/2011-version-63-platform.*

TABLE 15—MILWAUKEE-RACINE AREA TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS BY COUNTY FOR MAINTENANCE YEAR 2032

[tpd]

Source category	Kenosha county		Milwaukee county		Ozaukee county		Racine county		Washington county		Waukesha county	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Nonroad	1.38	1.19	5.93	4.35	1.05	1.35	1.82	1.56	1.95	1.20	6.32	4.28
Onroad	0.86	1.62	3.94	7.90	0.60	1.23	0.94	1.84	1.02	2.07	2.62	4.85
Point	0.57	7.41	4.29	7.66	0.43	0.97	1.15	0.48	0.53	0.14	2.71	1.13
Area	4.80	1.25	23.24	6.79	2.44	0.72	6.61	1.46	4.84	1.26	10.76	3.68
Total	7.62	11.48	37.40	26.70	4.51	4.27	10.52	5.36	8.34	4.66	22.42	13.94

TABLE 16—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_X EMISSIONS IN MILWAUKEE-RACINE AREA BETWEEN 2008, 2014, AND 2032

[tpd]

Source category	Milwaukee-Racine area									
	VOC					NO_X				
	2008	2014	2032	Net change (2008–2032)	Net change (2014–2032)	2008	2014	2032	Net change (2008–2032)	Net change (2014–2032)
Nonroad	50.02	26.87	18.44	−31.58	−8.43	45.34	24.36	13.93	−31.41	−10.43
Onroad	36.35	26.6	9.98	−26.37	−16.62	92.74	55.87	19.52	−73.22	−36.35
Point	12.17	10.33	9.69	−2.48	−0.64	39.16	28.9	17.8	−21.36	−11.1
Area	57.22	53.28	52.7	−4.52	−0.58	14.76	20.97	15.16	0.4	−5.81
Total	155.76	117.08	90.81	−64.95	−26.27	192	130.09	66.41	−125.59	−63.68

In summary, the maintenance demonstration for the Milwaukee-Racine area shows maintenance of the 1997 ozone standard by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 16 shows that VOC and NO_X emissions in Milwaukee-Racine area are projected to decrease by 26.27 tpd and 63.68 tpd, respectively, between 2014 and 2032.

3. Continued Air Quality Monitoring

WDNR commits to continue to operate an approved ozone monitoring network in Kewaunee County, Door County, Manitowoc County and the Milwaukee-Racine area. WDNR commits to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. WDNR remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System (AQS) in accordance with Federal guidelines.

4. Verification of Continued Attainment

WDNR has the legal authority to enforce and implement the requirements of the maintenance plans for Kewaunee County, Door County, Manitowoc County and the Milwaukee-Racine area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. WDNR will continue to operate an approved ozone monitoring network in Kewaunee County, Door County, Manitowoc County and the Milwaukee-Racine area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions to the Wisconsin Monitoring Network Plan approved by EPA.

In addition, to track future levels of emissions, WDNR will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539).

5. Contingency Plan

Section 175A of the CAA requires that the state must adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and, a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, WDNR has adopted contingency plans for Kewaunee County, Door County, Manitowoc County and the Milwaukee-Racine area to address possible future ozone air quality problems. The contingency plans adopted by WDNR have two levels of response: A warning level response and an action level response.

In WDNR's plans, a warning level response will be triggered when an annual fourth high monitored value higher than the NAAQS is monitored within the maintenance area. A warning level response will consist of WDNR

conducting a study to determine whether the ozone value indicates a trend toward higher ozone values and whether emissions are significantly higher than projected in the maintenance plan. The study will evaluate whether the actual emissions have deviated significantly from the emissions projections contained in the maintenance plan for the nonattainment areas, along with an evaluation of which sectors and states are responsible for any emissions increases. The study will also assess whether unusual meteorological conditions during the high-ozone year led to the high monitored ozone concentrations. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts. The study findings will be completed no later than the beginning of the following summer ozone control period (May 1). Implementation of necessary controls in response to a warning level response trigger will follow the procedures for control selection and implementation outlined under the action level response.

In WDNR's plans, an action level response is triggered when a three-year design value exceeding the level of the 1997 ozone NAAQS is monitored within the maintenance area. In the event that the action level is triggered and is not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, WDNR, in conjunction with the metropolitan planning organization or regional council of governments, will determine what additional control measures are needed to ensure future attainment of the ozone standard. Control measures selected will be adopted and implemented within 18 months of the certification of the monitoring data that triggered the action level response. WDNR may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

WDNR included the following list of potential contingency measures in its maintenance plans:

1. Implementation of any federally promulgated rule regulating transport of ozone precursors;
2. Updated Federal NO_X emission limits for heavy-duty vehicles;
3. Updated (Phase 2) Federal fuel efficiency standards for medium and heavy-duty engines and vehicles;
4. New Federal regulations on the sale of aftermarket catalysts for vehicle catalytic converters;
5. Anti-idling control program for mobile sources, targeting diesel vehicles;
6. Diesel exhaust retrofits;
7. Traffic flow improvements;
8. Park and ride facilities;
9. Rideshare/carpool program;
10. Expansion of the vehicle emissions testing program.

EPA has concluded that the maintenance plans adequately addresses the five basic components of a maintenance plan required under Section 175A of the CAA: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. Thus, EPA proposes to find that the maintenance plans SIP revision submitted by WDNR for Kewaunee County, Door County, Manitowoc County and the Milwaukee-Racine area meet the requirements of section 175A of the CAA.

B. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as ''that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101).''

EPA's current transportation conformity regulation requires a regional emissions analysis only during the time period beginning one year after a nonattainment designation for a particular NAAQS until the effective date of revocation of that NAAQS (40 CFR 93.109(c)). Therefore, pursuant to the conformity regulation, a regional emissions analysis using MVEBs is not required for conformity determinations for the 1997 ozone NAAQS because that NAAQS has been revoked (80 FR 12264). As no regional emissions analysis is required for Kewaunee County, Door County, Manitowoc County or the Milwaukee-Racine area, transportation conformity for the 1997 ozone NAAQS can be demonstrated by a Metropolitan Planning Organization and Department of Transportation for transportation plans and TIPs by showing that the remaining criteria contained in Table 1 in 40 CFR 93.109, and 40 CFR 93.108 have been met.

IV. Proposed Action

Under sections 110(k) and 175A of the CAA and for the reasons set forth above, EPA is proposing to approve the Kewaunee County, Door County and Manitowoc County, and the Milwaukee-Racine area second maintenance plans for the 1997 Ozone NAAQS, submitted by WDNR on December 13, 2019, as a revision to the Wisconsin SIP. These second maintenance plans are designed to keep the Kewaunee County area in attainment of the 1997 ozone NAAQS through 2028, Door County and Manitowoc County in attainment of the 1997 ozone NAAQS though 2030, and the Milwaukee-Racine area in attainment of the 1997 ozone NAAQS through 2032.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where 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, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 10, 2020.

Cheryl Newton,

Deputy Regional Administrator, Region 5.

[FR Doc. 2020–05960 Filed 3–23–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2020–0108: FRL–10006–82–Region 10]

Air Plan Approval; Washington; Northwest Clean Air Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Washington State Implementation Plan (SIP) that were submitted by the Washington Department of Ecology (Ecology) in coordination with the Northwest Clean Air Agency (NWCAA). This proposed revision would update certain NWCAA regulations currently in the SIP, remove obsolete regulations, and approve a subset of updated Ecology regulations to apply in NWCAA's jurisdiction.

DATES: Written comments must be received on or before April 23, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2020–0108 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*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.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, at (206) 553–0256, or *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA. This supplementary information section is arranged as follows:

Table of Contents

I. Background for Proposed Action

On January 27, 2014, Ecology submitted revisions to update the general air quality regulations contained in Chapter 173–400 Washington Administrative Code (WAC), which the EPA approved in three phases on October 3, 2014 (79 FR 59653), November 7, 2014 (79 FR 66291), and April 29, 2015 (80 FR 23721).[1] Under the revised applicability provisions of WAC 173–400–020 approved into the SIP on October 3, 2014, the regulations contained in Chapter 173–400 WAC apply statewide, ''. . . except for specific subsections where a local authority has adopted and implemented corresponding local rules that apply only to sources subject to local jurisdiction as provided under Revised Code of Washington (RCW) 70.94.141 and 70.94.331.'' [2] Therefore, the EPA's approval of Ecology's January 2014 submittal applied only to geographic areas and source categories under Ecology's direct jurisdiction. We stated that we would address the revised Chapter 173–400 WAC regulations as they apply to local clean air agency jurisdictions on a case-by-case basis in separate, future actions.

On February 6, 2020, the Director of Ecology, as the Governor's designee for SIP revisions, submitted a request to update the air quality regulations in the SIP as they apply to NWCAA's jurisdiction in 40 CFR part 52.2470(c),

[1] In subsequent actions on September 29, 2016 (81 FR 66823) and October 6, 2016 (81 FR 69385) we made minor corrections to our previous approval of Chapter 173–400 WAC and approved revised WAC provisions that incorporated by reference the most recent changes to the Federal regulations. Additionally, on December 4, 2019 (84 FR 66363) we proposed to approve additional changes to Chapter 173–400 WAC state effective September 16, 2018 and November 25, 2018, which we are in the processes of finalizing.

[2] For a more detailed discussion see page 39352 of the EPA's proposed approval of WAC 173–400–020 (79 FR 39351, July 10, 2014).

Table 5—Additional Regulations Approved for the Northwest Clean Air Agency (NWCAA) Jurisdiction. NWCAA's jurisdiction consists of Island, Skagit and Whatcom counties, excluding certain facilities discussed in section IV.D. *Scope of Proposed Action.* NWCAA's jurisdiction also excludes Indian reservation land or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

Appendices A and A.1 of the February 6, 2020, SIP revision show how the submitted regulatory updates would apply to NWCAA's jurisdiction. These revisions can be summarized in two categories. The first category consists of updates to the NWCAA regulations currently in the SIP or adopted since the last SIP approval. These updated provisions can apply in lieu of, or serve as a supplement to, the statewide Chapter 173–400 WAC provisions, as shown in Table 1. The second category consists of Chapter 173–400 WAC provisions or subsections that do not have direct corollaries under the NWCAA regulations. In these cases, Ecology and NWCAA requested that the EPA revise the SIP to include the most recently approved updates to Chapter 173–400 WAC to apply in NWCAA's jurisdiction, as shown in Table 2. The EPA's proposed approval of the Chapter 173–400 WAC provisions for NWCAA's jurisdiction would be subject to the same exceptions that apply to Ecology's direct jurisdiction. For example, as part of the January 2014 submittal of Chapter 173–400 WAC, Ecology did not submit for approval those provisions related to the regulation of toxic air pollutants or odor because such provisions are outside the scope of SIPs under Clean Air Act (CAA) section 110.

II. Changes to the NWCAA Regulations

The EPA last approved updates to the NWCAA regulations on February 22, 1995 (60 FR 9778) and October 24, 1995 (60 FR 54439). In this proposed action, NWCAA and Ecology requested updating parts of the SIP with the revised NWCAA regulations described below.

A. General Provisions

The NWCAA general provisions approved into the SIP are contained in sections 100 through 180. Many of the changes to the NWCAA general provisions since the EPA's last approval are minor in nature, including incorporating the name change from the ''Northwest Air Pollution Authority'' to the ''Northwest Clean Air Agency.'' Other changes include removing outdated provisions, consolidating sections, or revisions to more closely mirror the WAC. A full redline/strikeout comparison of the 1995-approved NWCAA general provisions to the most recent set of revisions submitted for approval is included in the docket for this action and will not be described in detail here. We note that NWCAA did not submit all sections of the general provisions. For example, NWCAA did not submit replacements for sections 121 *Orders,* 150 *Pollutant Disclosure—Reporting by Air Contaminant Sources,* and 180 *Sampling and Analytical Methods/References* (replaced by section 367, not submitted as part of this SIP revision). NWCAA also did not submit section 155 *State Environmental Policy Act* because it is outside the scope of SIPs under CAA section 110.

The most significant change with respect to the NWCAA general provisions is consistent with several recent approvals regarding the ''Regulations Approved but Not Incorporated by Reference'' portion of the SIP.[3] The EPA reviews and approves state and local clean air agency submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing such agency enforcement and other general authority are generally not incorporated by reference to avoid potential conflict with the EPA's independent authorities. In our previous 1995 approvals, we included many of NWCAA's enforcement and other general authority provisions in 40 CFR 52.2470(c), the regulations incorporated by reference. We are proposing to revise the SIP and approve the most recent updates to these sections for inclusion in 40 CFR 52.2470(e), *Table 1—Approved but Not Incorporated by Reference Regulations.* The NWCAA general provisions proposed for approval, but not incorporation by reference are listed below in section IV.B *Approved but Not Incorporated by Reference Regulations.* We note that sections 100 *Name of Agency,* 101 *Short Title,* and 102 *Policy,* remain in 40 CFR 52.2470(c), the regulations incorporated by reference, and we propose to approve the most recent updates to these sections, as shown in Table 1.

B. Definitions

Since the EPA's last approval in 1995, NWCAA revised section 200 *Definitions* to more closely align with the WAC. For example, definitions related to outdoor burning were moved to the standalone outdoor burning regulations in section 502 similar to the structure of WAC 173–425–030. Other NWCAA definitions were revised to more closely parallel WAC 173–400–030, the definition section for the state general air quality regulations (79 FR 59653, October 3, 2014). Other definitions, previously approved into the SIP under section 580 *Volatile Organic Compound Control,* were consolidated into the general definition section with minor wording revisions. A redline/strikeout comparison of the NWCAA definitions to the SIP-approved WAC definitions, or the prior 1995 SIP-approved NWCAA definition if there is not a WAC definition, is included in the docket for this action and will not be described in detail here. We note that consistent with our approval of Chapter 173–400 WAC, NWCAA did not submit definitions related to toxic air pollutants or odors, because they are outside the scope of SIPs under CAA section 110. We also note that NWCAA and Ecology requested that section 200 generally replace WAC 173–400–030 for sources subject to NWCAA's jurisdiction. However, if a definition does not appear in section 200 the WAC 173–400–030 definition shall apply. This applies mainly to definitions related to nonattainment new source review, visibility permitting, and the Prevention of Significant Deterioration Program described in the next section, because NWCAA relies primarily on the WAC for those provisions.

C. Control Procedures

NWCAA and Ecology submitted sections 300 *New Source Review,* 305 *Public Involvement,* 320 *Registration Program,* and 321 *Exemptions from Registration* for approval into the SIP, with certain exceptions described below. These sections consolidate and replace the 1995 SIP-approved sections 300, 301 (consolidated into 300), 302 (consolidated into 300), 303, 310 (replaced by 320), 320, 321 (replaced by 320), 322 (renumbered to 321), and 323 (replaced by 320). The revised versions more closely align the NWCAA new source review program and registration program with the WAC. A crosswalk comparing NWCAA sections to the SIP-approved WAC corollaries is included in the docket for this action.

Generally, the NWCAA new source review program in section 300 replaces the following WAC provisions: 173–400–036 *Relocation of Portable Sources,* 173–400–110 *New Source Review (NSR) for Sources and Portable Sources,* 173–400–111 *Processing Notice of*

[3] *See* Benton Clean Air Agency (80 FR 71695, November 17, 2015), Energy Facility Site Evaluation Council (82 FR 24533, May 30, 2017), and Southwest Clean Air Agency (82 FR 17139, April 10, 2017).

Construction Applications for Sources, Stationary Sources and Portable Sources, 173–400–113 *New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations,* and 173–400–560 *General Order of Approval* for facilities subject to NWCAA's permitting jurisdiction. As discussed in more detail in section IV.D *Scope of Proposed Action,* Ecology and the Energy Facility Site Evaluation Council (EFSEC) have direct permitting authority for certain source categories, including the Prevention of Significant Deterioration (PSD) new source review permitting program for major stationary sources in attainment and unclassifiable areas. In these cases, the WAC would continue to apply to permits issued under Ecology or EFSEC's direct authority. NWCAA retains citations to the PSD program, implemented under WAC 173–400–700 through 173–400–750, for purposes such as working on permit coordination with Ecology, enforcing existing PSD permit conditions not yet incorporated into Title V permits, and determining violations for inspected facilities that failed to obtain the necessary PSD permits. However, NWCAA is not requesting, and the EPA is not proposing to approve, the authority to issue PSD permits under WAC 173–400–700 through 173–400–750 for NWCAA's direct permitting jurisdiction.

With respect to stationary sources in nonattainment areas, NWCAA does not currently have, and has never had, a designated nonattainment area. For this reason, NWCAA has not developed independent local agency nonattainment new source review (NNSR) rules. In the event that a nonattainment area is designated in the future, NWCAA retains the following WAC provisions for implementation of NNSR, and the accompanying visibility permitting requirements for major stationary sources: WAC 173–400–112 *Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations,* WAC 173–400–117 *Special Protection Requirements for Federal Class I Areas,* 173–400–131 *Issuance of Emission Reduction Credits,* 173–400–136 *Use of Emission Reduction Credits (ERC),* as well as the major stationary source NNSR provisions contained in WAC 173–400–800 through 173–400–860.[4] Although most of the NNSR requirements are self-contained in WAC provisions cited above, certain subsections of WAC 173–400–111 and 173–400–113, noted in Table 2, relate to nonattainment areas and are also retained to apply to NWCAA's permitting jurisdiction, but only for purposes of implementing NNSR, as needed.

The crosswalk included in the docket also contains a comparison of section 305 *Public Involvement* to the WAC provisions it replaces for actions taken by NWCAA: WAC 173–400–171 *Public Notice and Opportunity for Public Comment* and WAC 173–400–175 *Public Information.* Although organized differently, the requirements of section 305 are substantively the same as the SIP-approved WAC provisions. This includes NWCAA's incorporation of the e-notice and e-access provisions promulgated by the EPA on October 18, 2016 (81 FR 71613).

The docket also contains a review of NWCAA's revised registration program. Since the last SIP approval, NWCAA changed the registration program from an exemption-based approach to a source category approach similar to WAC 173–400–100. We note that Ecology chose to remove WAC 173–400–100 from the SIP, because it did not impose air pollution control requirements on sources or implement or enforce Federal standards. See the discussion in our proposal, 79 FR 39351, at page 39354 (July 10, 2014). However, NWCAA is retaining the registration program in the SIP because it implements certain requirements such as emissions reporting.

Section 303 *Work Done Without an Approval* replaces the section 303 *Notice of Completion—Notice of Violation* previously approved into the SIP. This provision is an enforcement mechanism to address facilities that construct a new source or modify an existing source without a final order of approval from NWCAA. Because section 303 is an enforcement authority, NWCAA and Ecology requested that this provision be moved to the approved, but not incorporated by reference section of the SIP. The EPA is proposing to approve this request.

The EPA is also proposing to approve and incorporate by reference sections 300, 305, 320, and 321, with certain exceptions. As described in the supporting documents for this proposed action, NWCAA and Ecology did not submit subsections 300.8(C), 300.25, 320.3, and 321.3 because they are either not required SIP elements or not appropriate for SIP approval. We also note, NWCAA and Ecology did not submit, and the EPA is not proposing to approve, any provisions related to the regulation of Toxic Air Pollutants consistent with our action on Chapter 173–400 WAC. See the discussion in our proposed approval, 79 FR 39351, 39356 (July 10, 2014).

D. Standards

Sections 400 through 424 of the current NWCAA SIP are outdated ambient air quality standards, adopted in 1993. NWCAA and Ecology requested removal of these outdated standards to rely on the statewide Chapter 173–476 WAC *Ambient Air Quality Standards* already applicable in NWCAA's jurisdiction. We most recently updated Chapter 173–476 WAC in the SIP on October 6, 2016 (81 FR 69386). A review of the outdated and subsequently repealed NWCAA standards, the changes to the Federal standards, and the incorporation of all current Federal standards into Chapter 173–476 WAC is included in the docket for this action. The EPA is proposing to approve NWCAA and Ecology's request to remove the outdated NWCAA standards contained in sections 400 through 424.

III. Application of WAC 173–400–020

As previously discussed, a local clean air agency generally has the authority under WAC 173–400–020 to establish local regulations to supplement, or act in lieu of, the statewide Chapter 173–400 WAC provisions for sources within its jurisdiction. This approach is consistent with our previous SIP actions for Benton Clean Air Agency (80 FR 71695, November 17, 2015) and Southwest Clean Air Agency (82 FR 17136, April 10, 2017). As discussed above and in the supporting documents for this action, NWCAA and Ecology requested that the EPA approve and incorporate by reference: section 102

[4] The EPA approved WAC 173–400–800 through 173–400–860 for Ecology's direct permitting jurisdiction on November 7, 2014 (79 FR 59653), with minor revisions to reflect updated Federal citations on October 6, 2016 (81 FR 69385). In connection with our November 7, 2014 approval, we reviewed WAC 173–400–800 through 173–400–860 pursuant to the Federal regulatory requirements in existence at that time, and discussed the fact that the EPA's 2008 $PM_{2.5}$ New Source Review Rule (73 FR 28321, May 16, 2008), had been remanded to the EPA by the U.S. Court of Appeals for the District of Columbia Circuit. See 79 FR 43345, 43347 (July 25, 2014) (proposed action); 79 FR 59653 (final action). EPA's 2008 $PM_{2.5}$ New Source Review Rule has since been replaced by a revised implementation rule published August 24, 2016, which imposed additional NNSR requirements for $PM_{2.5}$ nonattainment areas (81 FR 58010). Because there are currently no nonattainment areas within NWCAA's jurisdiction or Washington State for any criteria pollutant, including $PM_{2.5}$, the EPA did not review WAC 173–400–800 through 173–400–860 for consistency with the newly revised $PM_{2.5}$ implementation rule; nor does Ecology or NWCAA have an obligation to submit rule revisions to address the 2016 $PM_{2.5}$ implementation rule at this time. However, we note that the Federal major stationary source NNSR requirements remain unchanged for all other criteria pollutants since our review and approval of WAC 173–400–800 through 173–400–860.

Policy to replace WAC 173–400–010; section 200 *Definitions* to replace WAC 173–400–030 (except for terms not defined in section 200); section 300 New Source Review to replace WAC 173–400–036, 173–400–110, 173–400–111, 173–400–113, and 173–400–560 (except certain subsections described above related to nonattainment areas or the associated visibility permitting for facilities subject to major stationary source NNSR); and section 305 Public Involvement to replace WAC 173–400–171 and WAC 173–400–175 for actions under NWCAA's jurisdiction.

As part of the February 6, 2020, submittal, NWCAA and Ecology also identified Chapter 173–400 WAC provisions that do not have a direct corollary in the NWCAA regulations. For these provisions NWCAA and Ecology requested that the EPA update these Chapter 173–400 WAC citations to the most recently EPA-approved version of those sections. The EPA is proposing to approve this request.

IV. The EPA's Proposed Action

A. Regulations To Approve and Incorporate by Reference Into the SIP

The EPA is proposing to approve and incorporate by reference into the Washington SIP at 40 CFR 52.2470(c), *Table 5—Additional Regulations Approved for the Northwest Clean Air Agency (NWCAA) Jurisdiction,* the NWCAA and Ecology regulations listed in Tables 1 and 2 for sources under NWCAA's jurisdiction.

TABLE 1—NORTHWEST CLEAN AIR AGENCY (NWCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State/local citation	Title/subject	State/local effective date	Explanation
100	Name of Agency	08/21/05	
101	Short Title	08/21/05	
102	Policy	08/21/05	Except provisions outside the scope of CAA section 110. Replaces WAC 173–400–010.
200	Definitions	05/12/19	Except the definitions Toxic Air Pollutant, Odor, and Odor Source. Generally replaces WAC 173–400–030. However, for definitions not included in section 200, the WAC 173–400–030 definitions in the table below shall apply.
300	New Source Review	05/12/19	Except subsections 300.8(C), 300.25, or any provisions related to the regulation of Toxic Air Pollutants. Replaces WAC 173–400–036, 173–400–110, 173–400–111, 173–400–113, and 173–400–560, except certain subsections of WAC 173–400–111 and 173–400–113 listed in the table below.
305	Public Involvement	05/12/19	Except provisions related to the regulation of Toxic Air Pollutants. Replaces WAC 173–400–171 and WAC 173–400–175, except subsection 173–400–171(6)(b).
320	Registration Program	5/12/19	Except subsection 320.3 and provisions related to the regulation of Toxic Air Pollutants or odor.
321	Exemptions from Registration	5/12/19	Except subsection 321.3.

Table 2 shows the updated Chapter 173–400 WAC provisions, or subsections, that NWCAA and Ecology requested apply to the SIP for NWCAA's jurisdiction. We note that many of the exclusions listed below are identical to the exclusions for Ecology's direct jurisdiction. We also note that NWCAA and Ecology did not submit updates to all the Chapter 173–400 WAC provisions. For these remaining provisions we will retain our prior approval of the WAC (60 FR 28726, June 2, 1995).

TABLE 2—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State/local citation	Title/subject	State/local effective date	Explanation
Chapter 173–400 WAC, General Regulations for Air Pollution Sources			
173–400–020	Applicability	12/29/12	
173–400–025	Adoption of Federal Rules	9/16/18	Only as it applies to cross references in the WAC.
173–400–030	Definitions	9/16/18	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104); or any definition included in NWCAA section 200.
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units	11/25/18	
173–400–091	Voluntary Limits on Emissions	4/1/11	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).

TABLE 2—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE—Continued

State/local citation	Title/subject	State/local effective date	Explanation
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	7/1/16	Only subsections (1)(c), (1)(d), (5)(b), and (7)(b), otherwise NWCAA section 300 applies.
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	The cross reference to WAC 173–400–113(3) is interpreted to be NWCAA section 300.9(B)(3).
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	Only subsection (4), otherwise NWCAA section 300 applies.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	
173–400–118	Designation of Class I, II, and III Areas	12/29/12	
173–400–131	Issuance of Emission Reduction Credits	4/1/11	
173–400–136	Use of Emission Reduction Credits (ERC)	4/1/11	
173–400–151	Retrofit Requirements for Visibility Protection	2/10/05	
173–400–171	Public Notice and Opportunity for Public Comment ...	9/16/18	Only subsection (6)(b), otherwise NWCAA section 305 applies.
173–400–200	Creditable Stack Height and Dispersion Techniques	2/10/05	
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	EPA did not review WAC 173–400–800 through 860 for consistency with the August 24, 2016 $PM_{2.5}$ implementation rule (81 FR 58010); nor does NWCAA have an obligation to submit rule revisions to address the 2016 $PM_{2.5}$ implementation rule at this time.
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	
173–400–830	Permitting Requirements	7/1/16	
173–400–840	Emission Offset Requirements	7/1/16	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	7/1/16	
173–400–860	Public Involvement Procedures	4/1/11	

B. Approved But Not Incorporated by Reference Regulations

As discussed above, we are proposing to approve the following updates to NWCAA's general provisions for inclusion in 40 CFR 52.2470(e), *Table 1—Approved but Not Incorporated by Reference Regulations:* 103 *Duties and Powers,* 105 *Separability,* 110 *Investigation and Studies,* 111 *Interference or Obstruction,* 112 *False and Misleading Oral Statement: Unlawful Reproduction or Alteration of Documents,* 113 *Service of Notice,* 114 *Confidential Information,* 120 *Hearings,* 123 *Appeal of Orders,* 124 *Display of Orders, Certificates and Other Notices: Removal or Mutilation Prohibited,* 131 *Notice to Violators,* 132 *Criminal Penalty,* 133 *Civil Penalty,* 134 *Restraining Orders—Injunction,* 135 *Assurance of Discontinuance,* and 303 *Work Done Without an Approval.*

C. Regulations To Remove From the SIP

NWCAA and Ecology's February 6, 2020, submittal included a request to remove several obsolete provisions from the SIP and to remove other provisions that are not required SIP elements under CAA section 110. As discussed in the supporting analysis included in the docket for this action, NWCAA and Ecology requested removal of the following general provision sections previously approved into the SIP in 1995: 104 *Adoption of State and Federal Laws and Rules* (not a required SIP element), 106 *Public Records* (replaced by section 305.7), 122 *Appeals from Orders or Violations* (consolidated into section 123), 130 *Citations—Notices* (consolidated into section 131), 140 *Reporting by Government Agencies* (subsumed by the new source review requirements), and 145 *Motor Vehicle Owner Responsibility* (not a required SIP element). As noted in the control procedures discussion, the former SIP-approved sections 301 and 302 were consolidated into Section 300 *New Source Review* and former sections 310, 322, and 323 were consolidated into the registration program in sections 320 and 321. We are proposing to approve NWCAA and Ecology's request to remove these outdated provisions from the SIP and to remove the outdated ambient air quality standards in sections 400 through 424, in order to rely on the current, statewide standards in Chapter 173–476 WAC. Lastly, we are proposing to remove from the SIP any formerly approved WAC provisions which are replaced by local agency corollaries discussed above for facilities or actions subject to NWCAA's jurisdiction.

D. Scope of Proposed Action

This proposed revision to the SIP applies specifically to the NWCAA jurisdiction incorporated into the SIP at 40 CFR 52.2470(c)—Table 5. As discussed in our October 3, 2014 action, local air agency jurisdiction in Washington is generally defined on a geographic basis; however, there are exceptions (79 FR 59653, at page 59654). By statute, NWCAA does not have authority for sources under the jurisdiction of EFSEC. See Revised Code of Washington Chapter 80.50. Under the applicability provisions of WAC 173–405–012, 173–410–012, and 173–415–012, NWCAA also does not have jurisdiction for kraft pulp mills, sulfite pulping mills, and primary aluminum plants. For these sources, Ecology retains statewide, direct jurisdiction. Ecology and EFSEC also retain statewide, direct jurisdiction for issuing PSD permits. Therefore, the EPA is not approving into 40 CFR 52.2470(c)—

Table 5 those provisions of Chapter 173–400 WAC related to the PSD program. Specifically, these provisions are WAC 173–400–116 and WAC 173–400–700 through 173–400–750, which the EPA has already approved as applying state-wide under 40 CFR 52.2470(c)—Tables 2 and 3.

As described in our April 29, 2015 action, jurisdiction to implement the visibility permitting program contained in WAC 173–400–117 varies depending on the situation. Ecology retains authority to implement WAC 173–400–117 as it relates to PSD permits. See 80 FR 23721. However, for facilities that may someday be subject to major NNSR under the applicability provisions of WAC 173–400–800, we are proposing that NWCAA would be responsible for implementing those parts of WAC 173–400–117 as they relate to major NNSR permits. See 80 FR 23726. If finalized, the EPA is also proposing to modify the visibility protection Federal Implementation Plan contained in 40 CFR 52.2498 to reflect the approval of WAC 173–400–117 as it applies to implementation of the major NNSR program in NWCAA's jurisdiction.

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

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the regulations shown in the tables in section IV.A. *Regulations to Approve and Incorporate by Reference into the SIP* and the rules proposed for removal from the SIP in section IV.C. *Regulations to Remove from the SIP.* The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- Does not provide the 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).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: March 5, 2020.

Chris Hladick,

Regional Administrator, Region 10.

[FR Doc. 2020–05911 Filed 3–23–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R01–OAR–2020–0083; FRL–10006–59–Region 1]

Approval and Promulgation of State Plan (Negative Declaration) for Designated Facilities and Pollutants: Vermont

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a negative declaration submitted to satisfy the requirements of the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills for the State of Vermont. The negative declaration certifies that there are no existing facilities in the State of Vermont that must comply with this rule.

DATES: Written comments must be received on or before April 23, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2020–0083 at *https://www.regulations.gov,* or via email to *kilpatrick.jessica@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any

comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jessica Kilpatrick, Air Permits, Toxics, & Indoor Programs Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: 05–2, Boston, MA 02109–0287. Telephone: 617–918–1652. Fax: 617–918–0652 Email: *kilpatrick.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, the EPA is approving the State of Vermont's negative declaration submitted in accordance with 40 CFR 60.23a(b) and 62.06, to satisfy the requirements in the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (MSW Landfills Emission Guidelines) for the State of Vermont as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. *See* MSW Landfills Emission Guidelines, 81 FR 59276 (August 29, 2016), as amended by 84 FR 32520 (July 8, 2019) (revising Emission Guidelines Implementing Regulations) and 84 FR 44547 (Aug. 26, 2019) (adopting Requirements in Emission Guidelines for MSW Landfills). A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules and Regulations section in this issue of the **Federal Register**.

Dated: March 18, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

[FR Doc. 2020–06172 Filed 3–23–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 13–184; Report No. 3143; FRS 16540]

Petitions for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration.

SUMMARY: Petitions for Reconsideration (Petitions) have been filed in the Commission's rulemaking proceeding filed by Debra M. Kriete, on behalf of State E-Rate Coordinators' Alliance and Fred Brakeman, on behalf of Infinity Communications & Consulting, Inc.

DATES: Oppositions to the Petitions must be filed on or before April 8, 2020. Replies to an opposition must be filed on or before April 20, 2020.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph Schlingbaum, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–0829.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3143, released February 28, 2020. The full text of the Petitions are available for viewing and copying at the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. Petitions also may be accessed online via the Commission's Electronic Comment Filing System at: *http://apps.fcc.gov/ecfs/.* The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5.U.S.C. because no rules are being adopted by the Commission.

Subject: Modernizing the E-Rate Program for Schools and Libraries, FCC 19–117 published at 84 FR 70026, December 20, 2019, in WT Docket No. 13–184. This document is being published pursuant to 47 CFR 1.429(e). *See also* 47 CFR 1.4(b)(1) and 1.429(f), (g).

Number of Petitions Filed: 2.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Secretary, Office of the Secretary.

[FR Doc. 2020–06114 Filed 3–23–20; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 85, No. 57
Tuesday, March 24, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Comments Requested

SUMMARY: In an effort to reduce the paperwork burden, the U.S. Agency for International Development (USAID) invites the general public and other Federal agencies to comment on the following continuing information collection, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: The accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information collected; and 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.

DATES: Submit comments on or before May 26, 2020.

FOR FURTHER INFORMATION CONTACT: Jacqueline Lewis Taylor, Bureau for Management, Office of Acquisition and Assistance—Policy Division, U.S. Agency for International Development, 1300 Pennsylvania Avenue NW, USAID Annex, Room 10.6.3F, Washington, DC 20523, (202) 916–2628 or via email *jltaylor@usaid.gov.*

Comments: Send comments via email to *jltaylor@usaid.gov,* U.S. Agency for International Development, Office of Acquisition and Assistance—Policy Division, 1300 Pennsylvania Avenue NW, USAID Annex, Room 10.6.3F, Washington DC 20523, 202–916–2628.

SUPPLEMENTARY INFORMATION:

OMB No: 0412–0602.

Form No.: AID 309–1.

Title: CONTRACT WITH AN INDIVIDUAL FOR PERSONAL SERVICES.

Type of Review: A Renewal Information Collection.

Purpose: United States Agency for International Development must collect information for reporting purposes to Congress and for contract administration by the Office of Acquisition and Assistance. This collection is to record information required to award a personal services contract, which is signed by the contractor and USAID.

Annual Reporting Burden

U.S. Respondents: 550.

Total annual U.S. responses: 550.

Total annual hours requested: 137.50 hours.

Marcelle J. Wijesinghe,

Division Chief, M/OAA/Policy, U.S. Agency for International Development.

[FR Doc. 2020–06120 Filed 3–23–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Washington State Crop Improvement Association, Inc. of Pullman, Washington, an exclusive license to the variety of chickpea described in Plant Variety Protection Application Number 201900296, 'CA0790B0043C,' applied for on August 5, 2019.

DATES: Comments must be received on or before April 23, 2020.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: Brian T. Nakanishi of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's rights in this plant variety are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this plant variety as Washington State Crop Improvement Association, Inc. of Pullman, Washington has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2020–06143 Filed 3–23–20; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 19, 2020.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding these information collections are best assured of having their full effect if received by April 23, 2020. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this

particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Aquaculture Survey.

OMB Control Number: 0535–0150.

Summary of Collection: The primary function of the National Agricultural Statistics Service is to prepare and issue state and national estimates of crop and livestock production, disposition, and prices, as well as specialty agricultural and environmental statistics. Public Law 96–362 was passed to increase the overall effectiveness and productivity of federal aquaculture programs by improving coordination and communication among Federal agencies involved in those programs. Aquaculture is an alternative method to produce a high protein, low fat product demanded by the consumer. Aquiculture surveys provide information on trout and catfish inventory, acreage and sales as well as catfish processed.

Need and Use of the Information: The survey results are useful in analyzing changing trends in the number of commercial operations and production levels by State. The information collected is used to demonstrate the growing importance of aquaculture to officials of Federal and State government agencies who manage and direct policy over programs in agriculture and natural resources. The type of information collected and reported provides extension educators and research scientists with data that indicates important areas that require special educational and/or research efforts, such as causes for loss of fish and pond inventories of fish of various sizes. The data gathered from the various reports provide information to establish contract levels for fishing programs and to evaluate prospective loans to growers and processors.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 2,275.

Frequency of Responses: Reporting: Monthly; Semi-annually; Annually.

Total Burden Hours: 732.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–06121 Filed 3–23–20; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket ID NRCS–2020–0001]

Notice of Proposed Revisions to the National Handbook of Conservation Practices for the Natural Resources Conservation Service

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of availability; request for comment.

SUMMARY: The Natural Resources Conservation Service (NRCS) is giving notice that it intends to issue a series of revised conservation practice standards in the National Handbook of Conservation Practices (NHCP). NRCS is also giving the public an opportunity to provide comments on specified conservation practice standards in NHCP.

DATES: We will consider comments that we receive by April 23, 2020.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the volume, date, and page number of this issue of the **Federal Register**. Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for docket ID NRCS–2020–0001. Follow the instructions for submitting comments.
- *Mail, or Hand Delivery:* Mr. Bill Reck, National Environmental Engineer, Conservation Engineering Division, U.S. Department of Agriculture, NRCS, 1400 Independence Avenue, South Building, Room 6136, Washington, DC 20250.

NRCS will post all comments on *http://www.regulations.gov.*

The copies of the proposed revised standards are available through *http://www.regulations.gov* by accessing Docket No. NRCS–2020–0001. Alternatively, the proposed revised standards can be downloaded or printed from *http://go.usa.gov/TXye.*

FOR FURTHER INFORMATION CONTACT: Mr. Bill Reck, (202) 720–4485; or *bill.reck@usda.gov.*

SUPPLEMENTARY INFORMATION: NRCS State Conservationists who choose to adopt these practices in their States will incorporate these practices into the respective electronic Field Office Technical Guide. These practices may be used in conservation systems that treat highly erodible land (HEL) or on land determined to be a wetland. Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 requires NRCS to make available for public review and comment all proposed revisions to conservation practice standards used to carry out HEL and wetland provisions of the law.

The amount of the proposed changes varies considerably for each of the conservation practice standards addressed in this notice. To fully understand the proposed changes, individuals are encouraged to compare these changes with each standard's current version, which can be found at *http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/technical/cp/ncps/?cid=nrcs143_026849.*

NRCS is requesting comments on the following conservation practice standards: Access Road (Code 560); Amending Soil Properties with Gypsum Products (Code 333); Amendments for Treatment of Agricultural Waste (Code 591); Anionic Polyacrylamide (PAM) Application (Code 450); Aquaculture Pond (Code 397); Bivalve Aquaculture Gear and Biofouling Control (Code 400); Composting Facility (Code 317); Conservation Crop Rotation (Code 328); Cross Wind Trap Strips (Code 589); Dam (Code 402); Denitrifying Bioreactor (Code 605); Energy Efficient Building Envelope (Code 672); Energy Efficient Lighting System (Code 670); Field Operations Emissions Reduction (Code 376); Forage Harvest Management (Code 511); Grade Stabilization Structure (Code 410); Grassed Waterway (Code 412); Heavy Use Area Protection (Code 561); Herbaceous Weed Treatment (Code 315); Herbaceous Wind Barriers (Code 603); Irrigation Land Leveling (Code 464); Irrigation Pipeline (Code 430); Irrigation System, Microirrigation (Code 441); Irrigation Water Management (Code 449); Lined Waterway or Outlet (Code 468); Livestock Pipeline (Code 516); Livestock Shelter Structure (Code 576); Pasture and Hay Planting (Code 512); Prescribed Burning (Code 338); Pumping Plant (Code 533); Riparian Forest Buffer (Code 391); Rock Wall Terrace (Code 555); Row Arrangement (Code 557); Saline and Sodic Soil Management (Code 610); Saturated Buffer (Code 604); Spoil Disposal (Code 572); Spring Development (Code 574); Stormwater Runoff Control (Code 570); Streambank and Shoreline Protection (Code 580); Surface Drain, Field Ditch (Code 607);

Terrace (Code 600); Trails and Walkways (Code 575); Tree/Shrub Site Preparation (Code 490); Underground Outlet (Code 620); Vegetative Barrier (Code 601); Water Harvesting Catchment (Code 636); Watering Facility (Code 614); Water Well (Code 642); and Well Decommissioning (Code 351).

The following are highlights of some of the proposed revisions to each standard:

Access Road (Code 560): The standard was changed to better accommodate local conditions and drainage issues.

Amending Soil Properties with Gypsum Products (Code 333): Deleted the word ''derived'' from the definition. Revised the Purpose section to reduce the wording and provide clarity. Added two purposes: Improve habitat for soil organisms and improve soil aggregate stability. Added new sentence to the Conditions Where Practice Applies section. Revised the Criteria section for active voice and clarity. Deleted the Additional Criteria to Reduce the Potential for Pathogen Transport. Wording change in the last sentence of the Additional Considerations to reduce dissolved phosphorus in surface water and ground water. Changed wording to active voice in the Operation and Maintenance section. Updated references in the Reference section.

Amendments for Treatment of Agricultural Waste (Code 591): Formatting and writing style were updated to meet current agency requirements. Minor revisions were made for clarity and readability purposes. The section on validation of the product better defines the criteria used by NRCS to determine what amendments are used under this standard. References were updated.

Anionic Polyacrylamide (PAM) Application (Code 450): Formatting and writing style were updated to meet current agency requirements. Moved the section ''safety and health'' from Consideration section to Criteria section.

Aquaculture Pond (Code 397): A purpose was added on reducing and managing discharges. Controlling invasive mollusks was added to the Criteria section. ''Additional Criteria for Modifying Existing Aquaculture Ponds'' was added. Considerations on pond sizing and lining for improved disease control were added.

Bivalve Aquaculture Gear and Biofouling Control (Code 400): There were no major changes to this standard. The definition was modified to add ''risk to species of concern.'' Two additional considerations were added regarding permits and licenses for beach access and operation of boats within shellfish operation. Plan map description was revised to reflect current ways to mark shellfish beds. A sub-bullet was added to record keeping in the Operation and Maintenance section. The References section was updated to delete outdated references and include new documents.

Composting Facility (Code 317): The format of the document was converted to the new template and some language was added on general benefits of composting within the Considerations and Operations and Maintenance sections. The compost facility standard language was changed to emphasize soil health. There was some clarification of the language of roof runoff collection and potential leachate from the compost. A technical requirement was added to the standard to limit stack height to address potential spontaneous combustion safety hazard.

Conservation Crop Rotation (Code 328): Minor edit to the definition to read ''A planned sequence of crops grown in the same location over a period of time (*i.e.,* the rotation cycle).'' Added three new purposes (improve soil organic matter quality, improve soil aggregate stability, improve habitat for soil organisms) and associated criteria in response to the Farm Bill review. Removed the ''Provide food and cover habitat for wildlife, including pollinators forage and nesting'' purpose, as this is not a primary resource concern, but left the associated considerations section information. Removed reference to suitable substitute crops in the General Criteria section and added it as a bulleted item to the Plans and Specifications section. Added a new Consideration section titled ''Considerations to Improve Soil Moisture.''

Cross Wind Trap Strips (Code 589): Reworded the Purpose section to clarify the purposes of the practice. Shortened the statement in the Conditions Where Practice Applies section. Edited the Considerations section to clarify the statements. Removed the Nutrient Application from the Plans and Specifications section. Formatting and writing style were updated to meet current agency requirements.

Dam (Code 402): Formatting and writing style were updated to meet current agency requirements. Minor revisions were made for clarity and readability purposes.

Denitrifying Bioreactor (Code 605): Minor revisions were made for clarity and readability purposes. Design criteria were simplified based on the latest research and field experience.

Energy Efficient Building Envelope (Code 672): This document has been revised extensively. The name has been changed from ''Building Envelope Improvement'' to ''Energy Efficient Building Envelope'' to better reflect the improved energy efficiency purpose. The standard has been rewritten to better focus on energy efficiency criteria, fire safety, flexibility, and industry standards. The requirement for an ASABE S612 Type 2 energy audit has been revised to allow other assessment methods. Criteria was added to support prescriptive upgrades to simplify and streamline implementation of some instances of the practice. Additions were made to the Criteria and Considerations sections for greenhouses.

Energy Efficient Lighting System (Code 670): This document has been revised extensively. The name has been changed from ''Lighting System Improvement'' to ''Energy Efficient Lighting System'' to better reflect the improved energy efficiency purpose. The standard has been rewritten to better focus on energy efficiency and energy conservation versus performance. The requirement for an American Society of Agricultural and Biological Engineers standard ASABE S612 Type 2 energy audit has been revised to allow other assessment methods. Criteria was added to support prescriptive upgrades to simplify and streamline implementation of some instances of the practice. Additions were made to the Criteria and Considerations sections for greenhouses and nurseries.

Field Operations Emissions Reduction (Code 376): Changed the definition to ''Adjusting field operations and technologies to reduce emissions of particulate matter (PM) and oxides of nitrogen from field operations.'' Added the additional purpose of reduce emissions of oxides of nitrogen to cover the expanded definition. Changed the ''Condition Where Practice Applies'' to ''This practice applies to cropland'' since another practice exists for performing these activities on other land uses and it is more appropriate to focus this practice on cropland.

Forage Harvest Management (Code 511): Most changes were minor in nature. Added content to reflect current agency policies and science. The definition was reworded for improved clarity. Two new purposes were added including ''Optimizing soil microbial life and aggregate stability'' and ''Reduce soil compaction'' to address soil health resource concerns. The remaining purposes were reworded slightly for improved clarity. New additional criteria for the two new purposes were added. Considerations section was reworded for improved

clarity. Considerations section updated with valid new considerations. References were updated.

Grade Stabilization Structure (Code 410): Formatting and writing style were updated to meet current agency requirements. Minor revisions were made for clarity and readability purposes.

Grassed Waterway (Code 412): Minor revisions were made for clarity and readability purposes. Clarified the minimum design storm to use under the heading ''Stability'' in the Criteria section. Added clarification on the freeboard requirements in the Depth section of Criteria. Statements were added in the Considerations section on soil health management systems and organic agriculture to address comments received from the general **Federal Register** notice for review. Removed the requirement for a profile in the Plans and Specifications section to address a comment provided during the general **Federal Register** notice for review.

Heavy Use Area Protection (Code 561): Simplified the definition to provide more flexibility to standard. Added reduce soil erosion as a purpose. Added the wording of relocation or treatment under the Considerations section to allow more flexibility in addressing the heavy use area resource concern. Changed name of Additional Criteria sections to better fit purpose statement.

Herbaceous Weed Treatment (Code 315): One purpose statement was determined to be a duplicate and was deleted along with the additional criteria for that purpose. Terminology was changed to be consistent throughout the standard. An additional requirement was added to the Plans and Specifications section. A few wording changes were made for clarity and readability.

Herbaceous Wind Barriers (Code 603): Added a brief sentence to the definition. Renamed the first purpose from soil erosion to wind erosion. Edited the Criteria section for verbiage and clarity. Moved a requirement within the ''Additional Criteria to Reduce Wind Erosion and Particulate Matter Emissions'' to ''General Criteria.'' Edited the Considerations section for verbiage. Listed the items in the Operation and Maintenance section as bulleted items.

Irrigation Land Leveling (Code 464): Formatting and writing style were updated to meet current agency requirements. Added text to Criteria section to include responsibilities of the landowner and contractor to follow laws and regulations, obtain all necessary permits, and locate all utilities. Modified the standard to provide clarity to some requirements.

Irrigation Pipeline (Code 430): Formatting and writing style were updated to meet current agency requirements. Supplementary ASTM references added. Maximum pressure relief valve activation pressure established to allow for congruency between industry standard practice, sound engineering practice, and NRCS Conservation Practice Standard. Requirement to install backflow prevention devices where chemicals are added in accordance with responsible governing body has been established.

Irrigation System, Microirrigation (Code 441): Wording changes were made for clarity and readability. Provisions made for deficit irrigation. Standardized wording for injection of chemicals.

Irrigation Water Management (Code 449): Wording changes were made for clarity and readability. Remote telemetry data systems with cloud-based irrigation scheduling capabilities were added to the standard. Four supplementary publications were added to the References section corresponding to cutting-edge science-based technology. ''Condition Where Practice Applies'' section was simplified by removing policy statements. Criteria section was reordered to clarify criteria to use for timing of irrigation events and criteria to use for the volume of irrigation events.

Lined Waterway or Outlet (Code 468): Added tractive stress as design method based on a literature review. Updated References section.

Livestock Pipeline (Code 516): Revised language as needed to improve readability and clarity of the standard. No major technical changes were made, except the secondary purpose of ''Develop renewable energy systems'' was removed.

Livestock Shelter Structure (Code 576): The definition and purpose for the standard made it clear that this practice is to protect animals from negative environmental factors and to improve the distribution of grazing animals. Provided clarity of minimum space needed based on specific animal type. Regarding wind shelters, provided guidance on stability analysis to ensure safety of producers and livestock. Multiple changes and additions were made throughout the standard.

Pasture and Hay Planting (Code 512): The name was changed from ''Forage and Biomass Planting'' to ''Pasture and Hay Planting'' to better convey NRCS' intending purpose of the practice. Changes were made to reflect current agency policy and science. Air quality was added as a Purpose. ''Produce feedstock for biofuel production'' was removed as a purpose. The purpose ''Improve soil and water quality'' was split into two purposes, ''Improve water quality'' and ''Improve Soil Health.'' The General Criteria section was updated to reflect the use of ecological site descriptions and forage suitability groups. Additional Criteria section was added for the three purposes added. The Considerations section was revised and updated to better represent the applicability of the standard. Plans and Specifications and References sections were updated to support the content and changes made.

Prescribed Burning (Code 338): This standard was last revised in 2010 and needed updating to reflect new policy and science. Definition was changed from controlled to planned to better reflect the practice. Added soil health to Purposes section. Criteria section changes included adding smoke management and reordered to reflect burn planning. Split Operations and Maintenance section to reflect the difference between during the burn and post burn. Added and updated References section.

Pumping Plant (Code 533): Formatting and writing style were updated to meet current agency requirements. Moved a few sentences to more appropriate sections of the practice. Minor revisions were made for clarity and readability purposes. The ''Improve Air Quality'' purpose was removed as it is addressed in NRCS CPS Combustion System Improvement (Code 372). Also removed ''Additional Criteria for Improvement of Air Quality.'' This should make it clear that this standard is not for the purpose of replacing, repowering, or retrofitting a combustion engine.

Riparian Forest Buffer (Code 391): Formatting and writing style were updated to meet current agency requirements. Minor revisions were made for clarity and readability purposes. The Purposes section was updated to better correlate with resource concerns. Criteria section was adjusted to match changes in purposes. The References section was updated.

Rock Wall Terrace (Code 555): The name of the standard was changed from ''Rock Barrier'' to ''Rock Wall Terrace'' to more accurately describe the practice. The purposes were revised to reflect the conservation resource concerns for installing the practice. Editorial changes were made throughout the document to improve clarity and to remove the reference to the old practice name. Three figures were added to graphically display the information in the text. The option of allowing the drainage from the

terrace to outlet into a filtration area separately or in conjunction with an outlet channel was added. For a wall height greater than 3 feet, a requirement to include a stability analysis was added.

Row Arrangement (Code 557): Minor editorial changes to Purposes and Condition Where Practice Applies sections to provide clarity. The order of topics in Criteria section was changed to provide a better flow of information. Editorial changes were made to Considerations section to provide context and clarity. Reference was added.

Saline and Sodic Soil Management (Code 610): The name of the standard has changed slightly from ''Salinity and Sodic Soil Management.'' Minor revisions were made for clarity and readability purposes. The Criteria section was reordered to better match criteria to intended purposes.

Saturated Buffer (Code 604): Formatting and writing style were updated to meet current agency requirements. Moved a few sentences to more appropriate sections of the practice. Minor revisions were made for clarity and readability purposes. In ''Conditions Where Practice Applies,'' changes were made to expand the applicability of the standard by allowing the practice to be applied to subsurface drainage systems with surface inlets. If the system includes surface inlets, the practice applies only if the inlets are adequately protected to prevent entry of soil and debris capable of plugging the distribution pipes.

Spoil Disposal (Code 572): Changed the name from ''Spoil Spreading'' and changed the units from acres to cubic feet. The Definition section was broadened to include all construction activities. The Purposes section was rewritten to align with resource concerns and the Criteria section was simplified.

Spring Development (Code 574): Formatting and writing style were updated to meet current agency requirements. Moved text in Criteria section to better align with the subsections. Updated Plans and Specifications and Operation and Maintenance sections with concise text. Changed the Definitions section to exclude Purpose section language.

Stormwater Runoff Control (Code 570): Changed the Definition to systems to control the quantity and quality of stormwater runoff. Reworded to remove flooding and clarify where the practice is used. Added emphasis for infiltration of precipitation for use in ground water recharge. Allowed other measures in addition to vegetative measures.

Streambank and Shoreline Protection (Code 580): Formatting and writing style were updated to meet current agency requirements. Minor revisions were made for clarity and readability purposes. References were also updated.

Surface Drain, Field Ditch (Code 607): Formatting and writing style were updated to meet current agency requirements. Updated Criteria section to include responsibilities of the landowner and contractor to follow laws and regulations, obtain all necessary permits, and locate all utilities.

Terrace (Code 600): Minor revisions were made for clarity and readability purposes. Revised the Purpose section from ''retain runoff for moisture conservation'' to ''manage runoff'' which includes stormwater management. In General Criteria, the Alignment heading was moved to the top, slightly reworded, and NRCS CPS Contour Farming (Code 330) was referenced. Topsoiling was moved from Criteria to Considerations section as it is not always required. Removed sentences on underground outlets because NRCS CPS Underground Outlet (Code 620) is referenced and that guidance is located there. Updated Consideration section on establishing temporary cover on disturbed areas that will cropped.

Trails and Walkways (Code 575): Improved wording for clarity and readability. Added criteria for drain spacing and trail widths. Clarified what is to be provided in the Specifications section and updated the References section.

Tree/Shrub Site Preparation (Code 490): Formatting and writing style were updated to meet current agency requirements. Minor revisions were made for clarity and readability purposes. Criteria section was updated to add for avoiding or mitigating soil damage and hydrologic impacts, and for evaluating pesticide risks. A new consideration was added, plans and Specifications section was expanded to align with conservation plan requirements, and Operations and Maintenance section was expanded to include safety plans for chemical exposure. The References section was also updated.

Underground Outlet (Code 620): Minor rewording to improve readability. Clarified Criteria section on thrust blocking, bedding, and backfill requirements to evaluate for site-specific conditions. Revised Criteria section for maximum velocity in perforated drain tubing to 12 feet per second and maximum velocity in nonperforated pipe to follow manufacturer's recommendations. Under Outlet heading of the Criteria section, a table was added showing minimum lengths of outlet pipe required by pipe diameter. Considerations section was updated to add selecting vegetation species that are native, support pollinators, and wildlife as appropriate.

Vegetative Barrier (Code 601): Added new purpose, ''Reduce ephemeral gully erosion'' and reworded the last purpose. Changed the Conditions Where Practice Applies section to add gully erosion to the statement. Formatting and writing style were updated to meet current agency requirements. Changed table to add stem diameter (.35) and associated densities. Also changed the densities for the .5 diameter.

Water Harvesting Catchment (Code 636): Definition was revised to more clearly define practice. Purposes section was reworded to more directly relate to the stated resource concerns. Condition Where Practice Applies section was rewritten to clearly explain where practice may be used. Criteria section was revised and reordered to clearly explain the design requirements. Considerations section was rewritten to provide additional information for designers to consider when planning and designing the practice.

Watering Facility (Code 614): Minor revisions were made for clarity and readability purposes. Clarification added that this practice does not apply to embankment or excavated ponds. Requirements were added for backflow prevention when connecting to domestic or municipal water supplies. Requirements were added for fencing where fencing is needed.

Water Well (Code 642): This standard has undergone minimal changes. Changes in the Criteria section included adding a new ''roles and responsibility,'' ''screen and filter pack installation,'' and ''well performance aquifer testing'' criteria.

Well Decommissioning (Code 351): This standard has undergone minimal changes. Changes to the Criteria section include adding ''Laws and Regulation,'' ''Roles and Responsibilities,'' ''Disinfection,'' and ''Sealing and Collapsible Formation.'' Deleted ''Casing Grouted in Place'' criterion.

Matthew Lohr,

Chief, Natural Resources Conservation Service.

[FR Doc. 2020–06088 Filed 3–23–20; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the West Virginia Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the West Virginia Advisory Committee to the Commission will convene by conference call at 11:30 a.m. (EST) on Tuesday, April 7, 2020. The purpose of the meeting is to discuss possible topics for the Committee's civil rights project.

DATES: Tuesday, April 7, 2020 at 11:30 a.m. (EST).

Public Call-In Information: Conference call-in number: 1–800–367–2403 and conference call ID number: 2629531.

FOR FURTHER INFORMATION CONTACT: Ivy Davis at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–800–367–2403 and conference call ID number: 2629531. Please be advised that before being placed into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–888–364–3109 and providing the operator with the toll-free conference call-in number: 1–800–367–2403 and conference call ID number: 2629531.

Members of the public are invited to make statements during the Public Comments section of the Agenda. They are also invited to submit written comments, which must be received in the regional office approximately 30 days after the scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425 or emailed to Corrine Sanders at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzmCAAQ;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: April 7, 2020 at 11:30 a.m. (EST)

I. Rollcall
II. Welcome
III. Project Planning
IV. Other Business
V. Next Meeting
VI. Open Comments
VII. Adjourn

Dated: March 19, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–06145 Filed 3–23–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Missouri Advisory Committee To Discuss Civil Rights Topics in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Missouri Advisory Committee (Committee) will hold a meeting on Thursday, April 16, 2020 at 11:00 a.m. (Central) for the purpose discussing civil rights topics in the state.

DATES: The meeting will be held on Thursday, April 16, 2020 at 11:00 a.m. (Central).

Public Call Information: Dial: 800–367–2403, Conference ID: 8962698.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 800–367–2403, conference ID: 8962698. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

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

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Missouri Advisory Committee link (*https://facadatabase.gov/committee/committee.aspx?cid=258&aid=17*). Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Roll Call
Discussion of Topics for study
Next Steps
Public Comment
Adjournment

Dated: March 19, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–06147 Filed 3–23–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Office of the Secretary

Renewal of Currently Approved Information Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on continuing to collect qualitative feedback on the department's service delivery, as required by the Paperwork Reduction Act of 1995. The purpose of this notice is to allow for 60 days of public comment.

DATES: To ensure consideration, written or online comments must be submitted on or before May 26, 2020.

ADDRESSES: Direct all written comments to the Department Paperwork Reduction Act Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *PRAcomments@doc.gov*). All comments received are part of the public record. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to the DOC PRA Clearance Officer, Office of Policy and Governance, 14th and Constitution Avenue NW, Room 6616, Washington, DC 20230 (202) 482–3306 or at *PRAcomments@doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that the Department of Commerce (DOC) programs are effective and meet our customers' needs we use a generic clearance process to collect qualitative feedback on our service delivery. This collection of information is necessary to enable DOC to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between DOC and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

II. Method of Collection

The methods of collection include but are not limited to in-person surveys, telephone interviews or questionnaires, mail and email surveys, web-based products, focus groups, and comment cards.

III. Data

OMB Control Number: 0690–0030.

Form Number(s): None.

Type of Review: Regular submission [Extension of a current information collection].

Affected Public: Individuals or Households, Businesses or for-profit organizations, State, Local or Tribal Government, etc.

Estimated Number of Respondents: 181,500.

Estimated Time per Response: 5 to 30 minutes for surveys; 1 to 2 hours for focus groups; 30 minutes to 1 hour for interviews.

Estimated Total Annual Burden Hours: 80,439.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Frequency of Requests: One-time.

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

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 19, 2020

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–06174 Filed 3–23–20; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Renewal of Currently Approved Information Collection; Comment Request; Challenge and Prize Competition Solicitations Generic Clearance

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on continuing to collect routine information from participants in challenges and competitions that the department posts on *Challenge.gov,* as required by the Paperwork Reduction Act of 1995. The purpose of this notice is to allow for 60 days of public comment.

DATES: To ensure consideration, written or online comments must be submitted on or before May 26, 2020.

ADDRESSES: Direct all written comments to the Department Paperwork Reduction Act Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington,

DC 20230 (or via the internet at *PRAcomments@doc.gov.* All comments received are part of the public record. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to the DOC PRA Clearance Officer, Office of Policy and Governance, 14th and Constitution Avenue NW, Room 6616, Washington, DC 20230, (202) 482–3306 or at *PRAcomments@doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is a renewal of a generic clearance for the collection of routine information requested of respondents in challenges and competitions that the Department of Commerce posts on the General Service Administration (GSA)'s *Challenge.gov* website since passage of the America COMPETES Act of 2011. In order for DOC to quickly and effectively launch competitions on a continual basis, DOC seeks generic clearance to collect information for these challenges and competitions, which will generally include first name, last name, email, city, state and when applicable other demographic information. It can also include other information necessary to evaluate submissions and understand their impact related to the general goals of the competition. Upon entry or during the judging process, applicants under the age of 18 may be asked to confirm parental consent, requiring students under 18 to have a parent's signature on a parental consent form provided by the DOC in order to qualify for the contest. For certain challenges we may also need to collect data such as types of data sets used in the solution, types of software tools used in the solution, and information regarding uses of proprietary software (*i.e.,* licenses or use agreements). Information obtained from participants will be used by the program managers (challenge manager), technical reviewers, and other agency officials (such agency counsels.

In 2011, Federal agencies including DOC were given prize authority for administering challenges and competitions. Section 105(a) of the America Competes Act, adds Section 24 to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 *et seq.*) that addresses provisions for challenges and competitions with prizes conducted by Federal agencies. Challenges and competitions enable DOC to tap into the expertise and creativity of the public in new ways. DOC evaluates submissions and typically awarded monetary or non-monetary prizes to winning entries. DOC may sponsor challenges and competitions in a wide variety of areas to increase public participation and solicit new ideas on a wide array of topics important to the agencies mission. DOC's goal is to engage a broader number of stakeholders who are inspired to work on some of our most pressing issues.

The information collected will be used to understand whether the participant has met the technical requirements for the challenge, assist in the technical review and judging of the solutions that are provided, and assess how the competition was administered. Information may be collected during the competition or after its completion.

This clearance applies to challenges posted on *Challenge.gov*, which uses a common platform for the solicitation of challenges from the public. Each agency designs the criteria for its solicitations based on the goals of the challenge and the specific needs of the agency. There is no standard submission format for solution providers to follow, and there is no set schedule for the issuance of challenges; they are developed and issued on an ''as needed'' basis in response to issues the federal agency wishes to solve.

II. Method of Collection

The primary method of collection will be the internet (electronically). Some supporting documents may be emailed, mailed, or collected in person.

III. Data

OMB Control Number: 0690–0031.
Form Number(s): None.
Type of Review: Regular submission [Extension of a current information collection].
Affected Public: Individuals or Households, Businesses or for-profit organizations, State, Local or Tribal Government, etc.
Estimated Number of Respondents: 1560.
Estimated Time per Response: 10–30 minutes.
Estimated Total Annual Burden Hours: 260.
Estimated Total Annual Cost to Public: $900.
Respondent's Obligation: Voluntary.
Frequency of Requests: One-time.
Legal Authority: 15 U.S.C. 3701 *et seq.*

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 19, 2020.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–06169 Filed 3–23–20; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–856]

Certain Corrosion-Resistant Steel Products From Taiwan: Final Results of Antidumping Duty Administrative Review; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) determines that producers/exporters subject to this review made sales of subject merchandise at less than normal value during the period of review (POR) July 1, 2017 through June 30, 2018.

DATES: Applicable March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Shanah Lee, Stephanie Berger, or Charles Doss, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6386, (202) 482–2483, or (202) 482–4474, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 2019, Commerce published the *Preliminary Results* for this administrative review.[1] We invited interested parties to comment on the *Preliminary Results.* This review covers three respondents: Prosperity Tieh Enterprise Co., Ltd. (Prosperity), Sheng Yu Steel Co., Ltd. (SYSCO), Synn Industrial Co., Ltd., and Yieh Phui Enterprise Co., Ltd. (collectively, Yieh Phui/Synn).[2] We received case briefs from California Steel Industries (California Steel) and Steel Dynamics, Inc. (Steel Dynamics), Prosperity, SYSCO, Toyota Tsusho America, Inc. (TAI), and Yieh Phui/Synn. We received rebuttal briefs from AK Steel Corporation (AK Steel) and SYSCO. We refer to California Steel, Steel Dynamics, and AK Steel collectively as the petitioners. Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the order is flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000. The products subject to the orders may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

Analysis of the Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the accompanying Issues and Decision Memorandum.[3] A list of the issues which parties raised, and to which we respond in the Issues and Decision Memorandum, is attached at the appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the preliminary weighted-average margin calculations for Prosperity, SYSCO, and Yieh Phui/Synn. For detailed information, *see* the Issues and Decision Memorandum.

Final Results of the Administrative Review

We determine that the following weighted-average dumping margins exist for the respondents for the period July 1, 2017 through June 30, 2018:

Exporter/producer	Weighted-average dumping margin (percent)
Prosperity Tieh Enterprise Co., Ltd	3.48
Sheng Yu Steel Co. Ltd	6.84
Yieh Phui Enterprise Co., Ltd. and Synn Industrial Co., Ltd	0.51

Assessment Rates

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

For Prosperity, SYSCO, and Yieh Phui/Synn, we calculated importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[4] For entries of subject merchandise during the POR produced by Prosperity, SYSCO, or Yieh Phui/Synn for which the producer did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[5]

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

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies listed above will be equal to the weighted-average dumping margins established in the final results of this

[1] *See Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 48120 (September 12, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Certain Corrosion-Resistant Steel Products from Taiwan: Final Results of Antidumping Duty Administrative Review; 2016*–2017, 83 FR 64527 (December 17, 2018), amended by *Certain Corrosion-Resistant Steel Products from Taiwan: Amended Final Results of Antidumping Duty Administrative Review; 2016–2017,* 84 FR 5991 (February 25, 2019) (*Final Results 2016–2017*). In the *Final Results 2016–2017,* we collapsed Yieh Phui and Synn and treated them as a single entity.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Certain Corrosion-Resistant Steel Products from Taiwan, 2017–2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

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

administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer has been covered in a prior complete segment of this proceeding, then the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.66 percent,[6] the all-others rate from the *Amended Final Determination.* 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 double antidumping duties.

Notification Regarding Administrative Protective Order

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

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

[6] *See Corrosion-Resistant Steel Products from Taiwan: Notice of Court Decision Not in Harmony with Final Determination of Antidumping Duty Investigation and Notice of Amended Final Determination of Investigation,* 84 FR 6129 (February 26, 2019) (*Amended Final Determination*).

Dated: March 10, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2020–05487 Filed 3–23–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–853]

Certain Crystalline Silicon Photovoltaic Products From Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) finds that producers or exporters of certain crystalline silicon photovoltaic products (solar products) from Taiwan sold subject merchandise at less than normal value in the United States during the period of review (POR), February 1, 2018 through January 31, 2019.

DATES: Applicable March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3936.

SUPPLEMENTARY INFORMATION:

Background

This review covers 36 producers or exporters. Commerce selected two companies, Motech Industries Inc. (Motech), and the collapsed entity that combined Sino-American Silicon Products Inc., Solartech Energy Corp, and Sunshine PV Corporation (collectively SAS–SEC), for individual examination. The producers or exporters not selected for individual examination are listed in the ''Final Results of the Review'' section of this notice.

On December 26, 2019, Commerce published the *Preliminary Results.*[1] On January 21, 2020 and January 27, 2020, we received case briefs from Win Precision Technology Co., Ltd. (Win Win) [2] and Peimar Industries Srl., (Peimar) [3] respectively. We received no rebuttal briefs.

Scope of the Order

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive. For a complete description of the scope of the order, *see* Appendix I of this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are listed in Appendix II to this notice and addressed in the IDM.[4] Interested parties can find a

[1] *See Certain Crystalline Silicon Photovoltaic Products From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019,* 84 FR 70943 (December 26, 2019) (*Preliminary Results*).

[2] *See* Win Win's Letter, ''Certain Crystalline Silicon Photovoltaic Products from Taiwan: Case Brief,'' dated January 21, 2020.

[3] *See* Peimar's Letter, ''Certain Crystalline Silicon Photovoltaic Products from Taiwan: Case Brief,'' dated January 27, 2020.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2018–2019 Administrative Review of the Antidumping Duty Order on Certain Crystalline Silicon Photovoltaic Products from Taiwan'' (IDM), dated

Continued

complete discussion of these issues and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and ACCESS is also available to all interested parties in the Central Records Unit, Room B8024, of the main Commerce building. In addition, a complete version of the IDM can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed IDM and the electronic version of the IDM are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made no changes to the weighted-average dumping margin for SAS–SEC or any other respondent presented in the *Preliminary Results.* However, we: (1) Corrected the name of Win Win in the rate table presented in the *Preliminary Results;*[5] and (2) added certain company-specific third-country case numbers presented in draft U.S. Customs and Border Protection (CBP) instructions that we released for comment.[6]

Determination of No Shipments

As noted in the *Preliminary Results,* we received no-shipment claims from seven companies, and we preliminarily determined that these seven companies had no shipments during the POR.[7] We received no comments from interested parties with respect to these claims. Therefore, because record evidence indicates that these seven companies had no entries of subject merchandise to the United States during the POR, we continue to find that they had no shipments during the POR. Consistent with our practice, we will issue appropriate instructions to CBP based on our final results.

Final Rates for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market-economy investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

In this review, we have a calculated a weighted-average dumping margin for SAS–SEC that is not zero, *de minimis,* or determined entirely on the basis of facts available. Accordingly, Commerce assigns to the companies not individually examined the 2.57 percent weighted-average dumping margin calculated for SAS–SEC.

Final Results of the Review

We are assigning the following weighted-average dumping margins to the firms listed below for the period February 1, 2018 through January 31, 2019.

Exporter/producer	Estimated weighted-average dumping margin (percent)
Sino-American Silicon Products Inc., Solartech Energy Corp. and Sunshine PV Corporation[8]	2.57
Baoding Jiasheng Photovoltaic Technology Co. Ltd	2.57
Baoding Tianwei Yingli New Energy Resources Co., Ltd	2.57
Beijing Tianneng Yingli New Energy Resources Co. Ltd	2.57
Boviet Solar Technology Co., Ltd	2.57
Canadian Solar Solutions Inc	2.57
EEPV Corp	2.57
E–TON Solar Tech. Co., Ltd	2.57
Gintech Energy Corporation	2.57
Hainan Yingli New Energy Resources Co., Ltd	2.57
Hengshui Yingli New Energy Resources Co., Ltd	2.57
Inventec Energy Corporation	2.57
Inventec Solar Energy Corporation	2.57
KOOTATU Tech. Corp	2.57
Kyocera Mexicana S.A. de C.V	2.57
Lixian Yingli New Energy Resources Co., Ltd	2.57
Lof Solar Corp	2.57
Mega Sunergy Co., Ltd	2.57
Ming Hwei Energy Co., Ltd	2.57
Neo Solar Power Corporation	2.57
Shenzhen Yingli New Energy Resources Co., Ltd	2.57
Sunengine Corporation Ltd	2.57
Sunrise Global Solar Energy	2.57
Tianjin Yingli New Energy Resources Co., Ltd	2.57
TSEC Corporation	2.57
United Renewable Energy Co., Ltd	2.57
Win Win Precision Technology Co., Ltd	2.57
Yingli Energy (China) Co., Ltd	2.57
Yingli Green Energy International Trading Company Limited	2.57

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the companies which were not selected for individual review, we will assign an assessment rate equal to SAS–SEC's dumping margin identified above. The final results of this review shall be the basis for the assessment of

concurrently with, and hereby adopted by, this notice.

[5] *See* IDM at Comment 1.

[6] *See* IDM at Comment 2.

[7] *See Preliminary Results,* 84 FR at 70944. These companies are AU Optronics Corporation, Canadian Solar Inc., Canadian Solar International Limited, Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Motech Industries Ltd., and Vina Solar Technology Co., Ltd.

[8] In the first administrative review of the order, Commerce collapsed Sino-American Silicon Products Inc. and Solartech Energy Corp. and treated the companies as a single entity for purposes of the proceeding. *See Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Results of Antidumping Duty Administrative Review; 2014–2016,* 82 FR 31555 (July 7, 2017). Because there were no relevant changes to the facts since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. In the final results of the third administrative review of this proceeding, we included Sunshine PV Corporation in the SAS–SEC entity. *See Certain Crystalline Silicon Photovoltaic Products From Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017–2018,* 84 FR 39802 (August 12, 2019), and the accompanying Issues and Decision Memorandum at n.4.

antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[9]

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

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be equal to the weighted-average dumping margin that is established in the final results of this review, except if the rate is less than 0.50 percent and therefore *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated companies not listed above, including the companies which Commerce has determined had no shipments in these final results, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the companies participated; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 19.50 percent, the all-others rate established in the LTFV investigation.[10] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Administrative Protective Order

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

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: March 17, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials.

Subject merchandise includes crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Modules, laminates, and panels produced in a third-country from cells produced in Taiwan are covered by this order. However, modules, laminates, and panels produced in Taiwan from cells produced in a third-country are not covered by this order.

Excluded from the scope of this order are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of this order are crystalline silicon photovoltaic cells, not exceeding 10,000mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Further, also excluded from the scope of this order are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (PRC).[11] Also excluded from the scope of this order are modules, laminates, and panels produced in the PRC from crystalline silicon photovoltaic cells produced in Taiwan that are covered by an existing proceeding on such modules, laminates, and panels from the PRC.

Merchandise covered by the order is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the order is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2020–06110 Filed 3–23–20; 8:45 am]

BILLING CODE 3510–DS–P

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

[10] *See Certain Crystalline Silicon Photovoltaic Products From Taiwan: Final Determination of Sales at Less Than Fair Value,* 79 FR 76966 (December 23, 2014).

[11] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (December 7, 2012); *see also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA090]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Scientific and Statistical Committee's Socio-Economic Panel (SEP) from April 8–9, 2020.

DATES: The meeting will be held via webinar April 8, 2020, from 1:30 p.m. until 5 p.m. and April 9, 2020, from 8:30 a.m. until 12 p.m.

ADDRESSES:

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The following agenda items will be addressed by the SEP during the meeting:

1. Update on recent and developing Council actions;
2. Updates on the Council's Citizen Science Program and Fishstory pilot project;
3. Coastal Migratory Pelagics historical documents project update,
4. Southeast Fisheries Science Center technical memorandum on the economics of the commercial king and Spanish mackerel fishery;
5. Allocations for multi-use fisheries;
6. Best fishing practices outreach and persuasion;
7. MyFishCount recreational reporting project survey results and final report.

The SEP will provide guidance to staff and recommendations for SSC and Council consideration as necessary. The meeting is open to the public and webinar registration is required. Information regarding webinar registration will be posted to the Council's website at: *https://safmc.net/safmc-meetings/scientific-and-statistical-committee-meetings/* as it becomes available. The meeting agenda, briefing book materials, and online comment form will be posted to the Council's website two weeks prior to the meeting. Written comment on SEP agenda topics is to be distributed to the Panel through the Council office, similar to all other briefing materials. Written comment to be considered by the SEP shall be provided to the Council office no later than one week prior to an SEP meeting. For this meeting, the deadline for submission of written comment is 12 p.m., Monday, April 1, 2020.

Multiple opportunities for comment on agenda items will be provided during the SEP meeting. Open comment periods will be provided at the start of the meeting and near the conclusion. Those interested in providing comment should indicate such in the manner requested by the Chair, who will then recognize individuals to provide comment. Additional opportunities for comment on specific agenda items will be provided, as each item is discussed, between initial presentations and SEP discussion. Those interested in providing comment should indicate such in the manner requested by the Chair, who will then recognize individuals to provide comment. All comments are part of the record of the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the public hearings.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 19, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–06157 Filed 3–23–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability of a Draft Management Plan for the Great Bay National Estuarine Research Reserve

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is soliciting comments from the public on a draft revised management plan for the Great Bay National Estuarine Research Reserve. The revision of the existing plan is necessitated by the applicable requirements of the National Estuarine Research Reserve System. The Great Bay National Estuarine Research Reserve revised plan is intended to replace the plan approved in 2007.

DATES: Comments must be received at the appropriate address (see **ADDRESSES**) on or before April 23, 2020.

ADDRESSES: Copies of the draft Management Plan can be downloaded or viewed on the internet at *https://www.greatbay.org/great-bay-draft-management-plan:-public-comment-period.* The document is also available by sending a written request to the point of contact identified below (see **FOR FURTHER INFORMATION**).

You may submit comments on this draft Management Plan by any of the following methods:

Electronic Submission: Submit all electronic public comments by email to *Adrianne.Harrison@noaa.gov.*

Mail: Submit written comments to Adrianne Harrison, Office for Coastal Management, 35 Colovos Rd., Suite 148, Durham, NH 03824.

Comments submitted by any other method or after the comment period may not be considered. All comments are a part of the public record and may be publicly accessible. Any personally identifiable information (*e.g.,* name, address) submitted voluntarily by the sender may also be accessible. NOAA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: Adrianne Harrison of NOAA's Office for Coastal Management, by email at *Adrianne.Harrison@noaa.gov,* phone at (603) 862–4272, or mail at: 35 Colovos Rd., Suite 148, Durham, NH 03824

SUPPLEMENTARY INFORMATION: Pursuant to 15 CFR 921.33(c), a state must revise its National Estuarine Research Reserve management plan at least every five years. The Great Bay National Estuarine Research Reserve revised plan will replace the previously-approved plan.

The revised management plan outlines a strategic plan; administrative structure; research and monitoring, education, stewardship, wetland science and training programs of the Great Bay National Estuarine Research Reserve; resource protection plan; restoration management plan; public access and visitor use plan; consideration for future land acquisition; and facility development to support operations and programming. This management plan articulates a five-year vision for GBNERR to continue to mature as a program, deliver science to inform coastal management, and raise awareness of estuaries and their connection to people using a place-based approach.

Since 2007, the Great Bay National Estuarine Research Reserve has implemented its core and system-wide programs; secured science, education, and conservation grants to serve Great Bay communities; made significant repairs and improvements to the Discovery Center campus including installing a pervious pavement parking lot, replacing the original boardwalk, and refurbishing staff offices in the Depot House and Discovery Center; updated exhibits in Discovery Center including designed and installed marine debris exhibits; and enhanced

waterfront access for kayak launching. There will be no boundary change with the approval of the revised management plan. The revised management plan will serve as the guiding document for the 10,235-acre Great Bay National Estuarine Research Reserve for the next five years.

NOAA's Office for Coastal Management will conduct an environmental analysis in accordance with the National Environmental Policy Act on the proposed approval of the Great Bay National Estuarine Research Reserve's revised management plan. The public is invited to provide comment or information about any potential environmental impacts of the proposed action, and these comments will be used to inform NOAA's decision on whether to approve the revised management plan.

(Authority: 16 U.S.C. 1461 *et seq.*)

Dated: March 19, 2020.

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2020–06163 Filed 3–23–20; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XW008]

Endangered and Threatened Species; Extension of Public Comment Period

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

ACTION: Notice; extension of public comment period.

SUMMARY: NMFS hereby extends the comment period on the notice of initiation of 5-year reviews of 28 species of Pacific salmon and steelhead (*Oncorhynchus spp.*) listed under the Endangered Species Act of 1973, as amended (ESA).

DATES: Comments and new relevant information related to these 5-year reviews must be received by midnight on May 26, 2020.

ADDRESSES: You may submit information on this document, identified by NOAA–NMFS–2019–0097, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2019–0097 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon to the right of that line.
- *Mail or Hand-Delivery:* Address comments to Robert Markle, NMFS, West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232.
- *Instructions:* Comments must be submitted by one of the above methods to ensure that we can receive, document, and consider them. Comments sent by any other method, sent to any other address or individual, or received after the end of the comment period may not be considered. 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.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Please note that submissions without supporting information—those merely stating support for or opposition to the action under consideration—will be noted but not used in making any listing determinations, as such comments do not represent actual scientific or commercial data.

FOR FURTHER INFORMATION CONTACT: Robert Markle at the above address, by phone at (503) 230–5419, or by email at *robert.markle@noaa.gov.*

SUPPLEMENTARY INFORMATION: On October 4, 2019, we announced the initiation of 5-year reviews for 28 listed species of Pacific salmon and steelhead; see 84 FR 53117 for a complete list of the species under review as well as the relevant statutory provisions, policies and information under consideration. The original comment period was set to close on March 27, 2020.

However, we are now extending the comment period by 60 days to provide additional opportunity for public input.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 19, 2020.

Angela Somma,

Chief, Endangered Species Conservation Division, National Marine Fisheries Service.

[FR Doc. 2020–06149 Filed 3–23–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement for the B–21 Main Operating Base 1 (MOB 1) Beddown at Dyess Air Force Base, Texas or Ellsworth Air Force Base, South Dakota—Cancellation of Public Scoping Meetings

AGENCY: Department of the Air Force, DoD.

ACTION: Amended notice of intent.

SUMMARY: The United States Air Force (Air Force) is issuing this amended and updated notice from the original notice published on March 6, 2020 (**Federal Register**, Vol. 85, No. 45, 13148) to advise the public of its continuing intent to prepare an Environmental Impact Statement (EIS) for the B–21 Main Operating Base 1 (MOB 1) Beddown at Dyess Air Force Base (AFB), Texas or Ellsworth AFB, South Dakota. As a direct result of the National Emergency declared by the President on Friday, March 13, 2020, in response to the coronavirus (COVID–19) pandemic in the United States and the Center for Disease Control's recommendations for social distancing and avoiding large public gatherings, the Air Force is now canceling six public scoping meetings between March 31, 2020 and April 9. In lieu of the public scoping meetings, the Air Force will use the alternative means set forth below to inform the public and stakeholders and to obtain input for scoping the proposed action.

ADDRESSES: Additional scoping-related information on the B–21 MOB 1 Beddown EIS environmental impact analysis process can be found on the project website at *www.B21EIS.com.* The project website can also be used to submit comments. In the alternative, interested persons may submit written comments by mail or email. For those who do not have ready access to a computer or the internet, the scoping-related materials posted to the website will be made available upon request by mail or phone. Inquiries, requests for scoping-related materials, and comments by mail regarding the Air Force proposal should be directed to either the Dyess AFB Public Affairs,

ATTN: B–21 EIS, 7 Lancer Loop, Suite 136, Dyess AFB, TX 79607; (325) 696–4820; *7bwpa@us.af.mil;* or to Ellsworth AFB Public Affairs, ATTN: Steve Merrill, 28th Bomb Wing Public Affairs, 1958 Scott Dr., Suite 4, Ellsworth AFB, SD 57706; (605) 385–5056; *28bw.public.affairs@us.af.mil.*

Written scoping comments will be accepted at any time during the environmental impact analysis process up until the public release of the Draft EIS. However, to ensure the Air Force has sufficient time to consider public input in the preparation of the Draft EIS, scoping comments must be submitted to the website or postmarked to one of the addresses listed above by May 9, 2020.

SUPPLEMENTARY INFORMATION: The EIS will assess the potential environmental consequences of the proposal to beddown the Department of Defense's new bomber aircraft, the B–21 ''Raider,'' which will eventually replace existing B–1 and B–2 bomber aircraft. The Air Force is preparing this EIS in accordance with the National Environmental Policy Act (NEPA) of 1969; 40 Code of Federal Regulations (CFR), Parts 1500–1508, the Council on Environmental Quality (CEQ) regulations implementing NEPA; and the Air Force's Environmental Impact Analysis Process (EIAP) as codified in 32 CFR part 989.

The beddown of the B–21 will take place through a series of three Main Operating Bases (MOB), referred to as MOB 1, MOB 2, and MOB 3. The Air Force proposes to beddown MOB 1, which includes two B–21 Operational Squadrons, a B–21 Formal Training Unit (FTU), and a Weapons Generation Facility (WGF) in this EIS. MOB 2 and MOB 3 beddown locations would be evaluated in future NEPA analyses, after the location for MOB 1 is chosen. The B–21 will operate under the direction of the Air Force Global Strike Command. The B–21 will have both conventional and nuclear roles and will be capable of penetrating and surviving in advanced air defense environments. It is projected to enter service in the 2020s, and the Air Force intends to have at least 100 B–21 aircraft built.

Purpose and Need for the Proposed Action: The purpose of the Proposed Action is to implement the goals of the National Defense Strategy by modernizing the U.S. bomber fleet capabilities. The B–21 Raider is being developed to carry conventional payloads and to support the nuclear triad by providing a visible and flexible nuclear deterrent capability that will assure allies and partners through the United States' commitment to international treaties. The B–21 will provide the only stealth bomber capability and capacity needed to deter, and if necessary, defeat our adversaries in an era of renewed great power competition.

Description of the Proposed Action and Alternatives: The Air Force proposes to beddown MOB 1, which includes two B–21 Operational Squadrons, a B–21 Formal Training Unit (FTU), and a Weapons Generation Facility (WGF) in this EIS. MOB 1 will support training of crewmembers and personnel in the operation and maintenance of the B–21 aircraft in an appropriate geographic location that can provide sufficient airfield, facilities, infrastructure, and airspace to support the B–21 training and operations. The EIS will analyze Dyess AFB and Ellsworth AFB as basing alternatives for MOB 1 for the Proposed Action, as well as a No Action Alternative. The basing alternatives were developed to minimize mission impact, maximize facility reuse, minimize cost, and reduce overhead, as well as leverage the strengths of each base to optimize the B–21 beddown strategy.

Brief Summary of Expected Impacts: The potential impacts of the alternatives and the No Action Alternative that the EIS may examine include impacts to land use, airspace, safety, noise, hazardous materials and solid waste, physical resources (including earth and water resources), air quality, transportation, cultural resources, biological resources, socioeconomics, and environmental justice.

Scoping and Agency Coordination: The scoping process will be used to involve the public early in the planning and development of the EIS, to help identify issues to be addressed in the environmental analysis. To effectively define the full range of issues and concerns to be evaluated in the EIS, the Air Force is soliciting scoping comments from interested local, state, and federal agencies and interested members of the public.

As a direct result of the National Emergency declared by the President on Friday, March 13, 2020, in response to the coronavirus (COVID–19) pandemic in the United States and the Center for Disease Control's recommendations for social distancing and avoiding large public gatherings, the Air Force has canceled six public scoping meetings between March 31, 2020 and April 9.

This amended notice of intent will be published in the Rapid City Journal and Black Hills Pioneer newspapers in South Dakota, the Abilene Reporter News and The Wylie News newspapers in Texas, as well as the Native Sun News, Indian Country Today and the Original Briefs tribal newspapers.

Request for Written Comments: The Air Force seeks written comments in the manner or methods listed in the **ADDRESSES** paragraph above on potential alternatives and impacts and identification of any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human environment.

Adriane S. Paris,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2020–06136 Filed 3–23–20; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2020–OS–0001]

Privacy Act of 1974; System of Records; Correction

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Notice of a modified System of Records; correction.

SUMMARY: On Tuesday, January 14, 2020, the DoD published a notice titled ''Privacy Act of 1974; System of Records'' that modified a System of Records titled, ''Forms and Account Management Service (FAMS), DCFO 01.'' Subsequent to the publication of the notice, DoD discovered that the SORN designator ''DCFO 01'' was not correct. This notice corrects the error.

DATES: This correction is effective on March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Patricia L. Toppings, 571–372–0485.

SUPPLEMENTARY INFORMATION: On Tuesday, January 14, 2020 (85 FR 2112–2114), the DoD published a notice titled ''Privacy Act of 1974; System of Records'' that modified a System of Records titled, ''Forms and Account Management Service (FAMS), DCFO 01.'' The error referenced in the **SUMMARY** section of this notice is corrected to read as follows:

1. On page 2112, in the third column, in the **SUMMARY** section ''DCFO 01'' is corrected to read ''DUSDC 02.''

2. On page 2113, in the second column, in the SYSTEM NAME AND NUMBER paragraph, ''DCFO–01'' is corrected to read ''DUSDC 02.''

Dated: March 19, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–06151 Filed 3–23–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Naval War College Subcommittee of the E4SAB; Cancellation

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting; cancellation.

SUMMARY: On Friday, March 13, 2020, the Department of the Navy published a notice announcing a meeting of the U.S. Naval War College Subcommittee of the E4SAB that was to take place on Thursday, April 2, 2020, and Friday, April 3, 2020. Due to ongoing COVID–19 concerns, the Department of the Navy is cancelling this meeting.

DATES: The meeting that was open to the public, Thursday, April 2, 2020, from 9:00 a.m. to 4:30 p.m., and Friday, April 3, 2020, from 8:30 a.m. to 11:00 a.m. has been cancelled.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Gibbons, Alternate Designated Federal Official (ADFO), 686 Cushing Road, Newport, RI 02841–1207, telephone number (401) 841–4008, *gibbonst@usnwc.edu.*

SUPPLEMENTARY INFORMATION: The meeting notice published in the **Federal Register** on Friday March 13, 2020 (85 FR 14657).

Due to circumstances beyond the control of the Department of Defense, the Designated Federal Officer for U.S. Naval War College was unable to provide public notification required by 41 CFR 102–3.150(a) concerning the cancellation of the previously noticed meeting for April 2 through 3, 2020. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: March 18, 2020.

K.K. Ramsey,

Office of the Judge Advocate General, Administrative Law U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2020–06128 Filed 3–23–20; 8:45 am]

BILLING CODE 3810–FF–P

ELECTION ASSISTANCE COMMISSION

Proposed Voluntary Voting System Guidelines 2.0 Requirements; Request for Public Comment

AGENCY: United States Election Assistance Commission.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Help America Vote Act of 2002, the U.S. Election Assistance Commission (EAC) is publishing the Voluntary Voting System Guidelines 2.0 (VVSG 2.0) Requirements for public comment. Aligned with the VVSG 2.0 Principles and Guidelines, the VVSG 2.0 Requirements represent the requirements to which a voting system is tested to obtain certification under the EAC Testing and Certification Program.

DATES: Comments must be received on or before 5:00 p.m. EST on June 22, 2020.

ADDRESSES:

Submission of Comments: Comments on the proposed VVSG 2.0 should be submitted electronically via *https://www.regulations.gov* (docket ID: EAC–2020–0002). Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, *Attn:* Testing & Certification.

Obtaining a copy of VVSG 2.0: To obtain a copy of the draft VVSG 2.0 Requirements (1) Download a copy at *https://www.regulations.gov* (docket ID: EAC–2020–0002); or (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, *Attn:* Testing & Certification.

FOR FURTHER INFORMATION CONTACT: Jerome Lovato, Phone (301) 960–1216, email *jlovato@eac.gov;* U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910

SUPPLEMENTARY INFORMATION: The EAC is placing the proposed VVSG 2.0 Requirements as submitted by the Technical Guidelines Development Committee (TGDC) out for a 90-day public comment period. The EAC is asking for comments regarding all sections of the VVSG 2.0 Requirements.

The EAC made the decision to undertake the drafting of VVSG 2.0 as a result of feedback received over several years from a variety of stakeholders including, state and local election officials, voting system manufacturers, and usability, accessibility and security interest groups.

The TGDC proposed a different structure for developing the VVSG 2.0 than in previous years. This structure differs significantly from previous versions of the VVSG because the VVSG 2.0 Requirements are presented in a separate document from the VVSG 2.0 Principles and Guidelines. The VVSG 2.0 Principles and Guidelines are high-level system design goals and a broad description of the functions that make up a voting system. The EAC sought public comments on the VVSG 2.0 Principles and Guidelines from February 28, 2019 to June 7, 2019. Aligned with the VVSG 2.0 Principles and Guidelines, the VVSG 2.0 Requirements represent the requirements to which a voting system is tested to obtain certification under the EAC Testing and Certification Program.

The TGDC unanimously approved to recommend VVSG 2.0 Requirements on February 7, 2020, and sent the Requirements to the EAC Acting Executive Director via the Director of the National Institute of Standards and Technology (NIST), in the capacity of the Chair of the TGDC on February 28, 2020. Upon adoption, the VVSG 2.0 would become the fifth iteration of national level voting system standards. The Federal Election Commission published the first two sets of federal standards in 1990 and 2002. The EAC then adopted Version 1.0 of the VVSG on December 13, 2005. In an effort to update and improve version 1.0 of the VVSG, on March 31, 2015, the EAC commissioners unanimously approved VVSG 1.1.

Amanda Joiner,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2020–06086 Filed 3–23–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM19–12–000]

Revisions to the Filing Process for Commission Forms; Supplemental Notice of Technical Conference

This Supplemental Notice establishes the agenda for the technical conference to be held March 24 through March 26, 2020, beginning each day at 9:00 a.m. Eastern Time, related to the use of XBRL for form submissions. This conference will be held electronically via webcast. The details for participating are detailed below. The agenda outlines the topics and specific forms to be discussed on each day.

On January 13, 2020, a notice was issued in the above-captioned proceeding announcing that a technical conference would be rescheduled and held on March 24 through March 26, 2020. On March 13, 2020, a notice was issued announcing that the technical conference will no longer be an in-person conference. All interested

persons are invited to participate and access the conference via webcast using the instructions outlined below.

During the conference, Commission staff will discuss the draft FERC XBRL Taxonomy and related documents, which are available on the eForms Refresh website at *https://www.ferc.gov/docs-filing/forms/forms-refresh.asp,* as well as issues related to the transition to XBRL, including the implementation schedule. In addition, a revised FERC XBRL Taxonomy, with revisions based on the comments received through the Yeti review tool, will be released on the FERC XBRL Forms Refresh website prior to the commencement of the technical conference and will be discussed at the conference. Commission staff requests that suggestions for other discussion topics be emailed to *XBRLFormsRefresh@ferc.gov.*

All people interested in participating in the conference must register at the following link: *https://www.ferc.gov/whats-new/registration/03-24-20-form.asp* by no later than noon on March 23, 2020. There is no registration fee. This registration will help facilitate hosting the conference via webcast. Anyone with internet access can join the meeting by navigating to the Calendar of Events on *www.ferc.gov,* locating the Revisions to the Filing Process for Commission Forms Technical Conference on the Calendar, and clicking on the link to the webcast. The webcast will allow persons to view the technical conference presentations; however, attendees will need to dial in by phone to access a conference line for the audio. Please follow the instructions that will be available by using the link to the technical conference when it is published on *www.ferc.gov,* or by using the eForms Refresh website at *https://www.ferc.gov/docs-filing/forms/forms-refresh.asp.* Also, to enable the presentations to be heard clearly by all participants, please place your individual phone on mute immediately upon dialing in to the conference call number. All interested parties can email questions during the conference to *XBRLFormsRefresh@ferc.gov.* Commission staff will address questions to the extent possible during the presentations or respond to the questions after the conference via email.

Following this online technical conference, if the Commission considers it necessary to schedule an additional conference, another notice will be issued to announce such a conference. Participants will be able to file comments in the above-captioned docket following the technical conference.

The conference will be transcribed. Transcripts will be available immediately for a fee from Ace Reporting (202–347–3700).

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY), or send a fax to 202–208–2106 with the requirement accommodations.

For more information about this technical conference, please contact Robert Hudson at *Robert.Hudson@ferc.gov* or (202) 502–6889, or email *XBRLFormsRefresh@ferc.gov.* For information related to logistics, please contact Sarah McKinley at *Sarah.McKinley@ferc.gov* or (202) 502–8368.

Dated: March 18, 2020.

Kimberly D. Bose,

Secretary.

Revisions to the Filing Process for Commission Forms

Technical Conference

Commission Meeting Room

Tuesday, March 24, 2020, 9:00 a.m.–5:00 p.m.

Agenda

9:00 a.m.–5:00 p.m.

Introduction and General Demonstration

eForms System and Common Items Between eForms

Form Nos. 1, 1–F, 3–Q (Electric)

- Format Enhancements
- Implementation Timeline
- Comments and Inquiries Received through Yeti
- Questions Emailed to *XBRLFormsRefresh@ferc.gov*

Wednesday, March 25, 2020, 9:00 a.m.–5:00 p.m.

Agenda

9:00 a.m.–5:00 p.m.

Introduction

Continuation of Form Nos. 1, 1–F, 3–Q (Electric) Discussion (if needed)

Form No. 60

- Company Registration and Company Identifiers
- Format Enhancements
- Implementation Timeline
- Comments and Inquiries Received through Yeti
- Questions Emailed to *XBRLFormsRefresh@ferc.gov*

Form No. 714

- Company Registration and Company Identifiers
- Format Enhancements
- Implementation Timeline
- Questions Emailed to *XBRLFormsRefresh@ferc.gov*

Thursday, March 26, 2020, 9:00 a.m.–5:00 p.m.

Agenda

9:00 a.m.–5:00 p.m.

Introduction

Form Nos. 2, 2–A, 3–Q (Natural Gas)

- Format Enhancements
- Implementation Timeline
- Comments and Inquiries Received through Yeti
- Questions Emailed to *XBRLFormsRefresh@ferc.gov*

Form Nos. 6, 6–Q

- Format Enhancements
- Implementation Timeline
- Comments and Inquiries Received through Yeti
- Questions Emailed to *XBRLFormsRefresh@ferc.gov*

[FR Doc. 2020–06138 Filed 3–23–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–8865–000]

Jackson, Kathryn; Notice of Filing

Take notice that on March 16, 2020, Kathryn Jackson, submitted for filing, application for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) (2019) and Part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45 (2019).

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically

should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 6, 2020.

Dated: March 18, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06125 Filed 3–23–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1409–005.

Applicants: Birdsboro Power LLC.

Description: Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT & Request for Waiver to be effective N/A.

Filed Date: 3/18/20.

Accession Number: 20200318–5024.

Comments Due: 5 p.m. ET 4/8/20.

Docket Numbers: ER19–2282–001.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: Establish Effective Date for M2M Entitlement Rules to be effective 4/7/2020.

Filed Date: 3/18/20.

Accession Number: 20200318–5099.

Comments Due: 5 p.m. ET 4/8/20.

Docket Numbers: ER20–1324–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA No. 1727, Queue No. Z1–097 (consent) to be effective 12/9/2014.

Filed Date: 3/17/20.

Accession Number: 20200317–5132.

Comments Due: 5 p.m. ET 4/7/20.

Docket Numbers: ER20–1331–000.

Applicants: Indiana Michigan Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: AEPSC on behalf of Indiana Michigan Power Company submits ILDSA, SA No. 1453 to be effective 4/1/2020.

Filed Date: 3/17/20.

Accession Number: 20200317–5156.

Comments Due: 5 p.m. ET 4/7/20.

Docket Numbers: ER20–1333–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: OATT_PSC–LSCP-BigHornS1–GI–2019–6–PLGIA–572–0.0.0 to be effective 3/19/2020.

Filed Date: 3/18/20.

Accession Number: 20200318–5025.

Comments Due: 5 p.m. ET 4/8/20.

Docket Numbers: ER20–1334–000.

Applicants: ITC Midwest LLC.

Description: § 205(d) Rate Filing: NSP Medford Junction CIAC Agreement to be effective 5/18/2020.

Filed Date: 3/18/20.

Accession Number: 20200318–5077.

Comments Due: 5 p.m. ET 4/8/20.

Docket Numbers: ER20–1335–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: OATT Revised Attachment H–1 (Rev Depreciation Rates 2020) to be effective 6/1/2020.

Filed Date: 3/18/20.

Accession Number: 20200318–5087.

Comments Due: 5 p.m. ET 4/8/20.

Docket Numbers: ER20–1336–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to OA re: Confidentiality Provisions to be effective 5/18/2020.

Filed Date: 3/18/20.

Accession Number: 20200318–5096.

Comments Due: 5 p.m. ET 4/8/20.

Docket Numbers: ER20–1338–000.

Applicants: King Plains Wind Project, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization, Request for Related Waivers to be effective 5/18/2020.

Filed Date: 3/18/20.

Accession Number: 20200318–5106.

Comments Due: 5 p.m. ET 4/8/20.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF20–727–000.

Applicants: Siouxland Ethanol, LLC.

Description: Form 556 of Siouxland Ethanol, LLC.

Filed Date: 3/16/20.

Accession Number: 20200316–5181.

Comments Due: Non-Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 18, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06126 Filed 3–23–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–47–000]

PennEast Pipeline Company, LLC; Notice of Schedule for Environmental Review of the Penneast 2020 Amendment Project

On January 30, 2020, PennEast Pipeline Company, LLC (PennEast) filed an application in Docket No. CP20–47–000 with the Federal Energy Regulatory Commission (FERC or Commission) requesting to amend the Certificate of Public Convenience and necessity and related authorizations issued by the Commission on January 19, 2018 in Docket No. CP15–558–000 Certificate Order under section 7(c) of the Natural Gas Act NGA. The proposed project is known as the PennEast 2020 Amendment Project (Project). PennEast requests authorization to construct and operate the previously authorized project in two phases, beginning with the facilities located in Pennsylvania through approximately milepost 68 of the Certificated Route. As part of Phase 1, PennEast proposes to include new delivery points with Columbia Gas Transmission, LLC and Adelphia Gateway, LLC at a new metering and regulating station (Church Road Interconnects) in Northampton County, Pennsylvania. The Phase 1 facilities would deliver up to 650,000 dekatherms per day of firm transportation service to new delivery points with Columbia Gas

Transmission, LLC and Adelphia Gateway, LLC at the proposed metering and regulating station. PennEast states it will continue to work towards acquiring the New Jersey authorizations for the Phase 2 facilities located in New Jersey.

On February 12, 2020, the Commission issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—July 10, 2020
90-day Federal Authorization Decision Deadline—October 8, 2020

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The 2020 Amendment Project would consist of a single metering and regulating station with two separate interconnections, measurement facilities, and a pig launcher and receiver. The new station, known as the Church Road Interconnects, is all located within a 2.1-acre site at Milepost 68.2R2 along the authorized PennEast Pipeline route, in Bethlehem Township, Northampton County, Pennsylvania.

Background

On February 28, 2020, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Penneast 2020 Amendment Project, and Request for Comments on Environmental Issues* (NOI). The NOI was sent to federal, state, and local government agencies; Native American tribes; affected landowners; and interested parties that filed comments on the PennEast 2020 Amendment Project in response to the Notice of Application. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP20–47), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.*

The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: March 18, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–06139 Filed 3–23–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1219–000]

Peetz Table Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Peetz Table Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 7, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 18, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06124 Filed 3–23–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP20–658–000.
Applicants: Empire Pipeline, Inc.
Description: § 4(d) Rate Filing: Fuel Tracker (Empire Tracking Supply Retainage) to be effective 4/1/2020.
Filed Date: 3/13/20.
Accession Number: 20200313–5140.
Comments Due: 5 p.m. ET 3/25/20.

Docket Numbers: RP19–1523–006.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Compliance filing Correct tariff record in RP19–1523–004 to be effective 3/1/2020.
Filed Date: 3/16/20.
Accession Number: 20200316–5139.
Comments Due: 5 p.m. ET 3/23/20.

Docket Numbers: RP20–580–001.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Tariff Amendment: Amendment to Fuel Record in RP20–580 to be effective 4/1/2020.

Filed Date: 3/16/20.

Accession Number: 20200316–5141.

Comments Due: 5 p.m. ET 3/23/20.

Docket Numbers: RP20–659–000.

Applicants: National Fuel Gas Supply Corporation.

Description: Compliance filing PS/GHG Costs True-Up Report Pursuant to GT&C Section 42.3(c).

Filed Date: 3/16/20.

Accession Number: 20200316–5084.

Comments Due: 5 p.m. ET 3/30/20.

Docket Numbers: RP20–660–000.

Applicants: Equitrans, L.P.

Description: Compliance filing Notice Regarding Non-Jurisdictional Gathering Facilities (PEB–1453–1437–1486).

Filed Date: 3/16/20.

Accession Number: 20200316–5085.

Comments Due: 5 p.m. ET 3/30/20.

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: March 18, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06122 Filed 3–23–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1220–000]

Oliver Wind II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Oliver Wind II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 7, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 18, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06123 Filed 3–23–20; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0204, 3060–1237; FRS 16588]

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 (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 26, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0204.

Title: Special Eligibility Showings for Authorizations in the Public Safety Pool (47 CFR 90.20(a)(2)(v) and 90.20(a)(2)(xi)).

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or household and business or other for-profit.

Number of Respondents and Responses: 220 respondents; 220 responses.

Estimated Time per Response: 0.704 hours (range of 15 minutes to 45 minutes).

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for the collections of information is contained in Sections 154(i), 161, 303(g), 303(r), 332(c)(7).

Total Annual Burden: 155 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: Yes. The information collection in 47 CFR 90.20(a)(2)(v) affects individuals, and there is a system of records that covers it (FCC/WTB–1, Wireless Services Licensing Records).

Nature and Extent of Confidentiality: Requests to withhold information submitted to the Commission from public inspection will be treated in accordance with section 0.459 of the Commission's rules.

Needs and Uses: The Commission collects this information to ensure that certain non-governmental applicants applying for the use of frequencies in the Public Safety Pool meet the eligibility criteria set forth in the Commission's rules.

OMB Control Number: 3060–1237.

Title: FCC EEO Informal Complaint and Formal Complaint forms.

Form Number: FCC Form-5621, FCC Form-5622.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Federal Government.

Number of Respondents and Responses: 23 respondents; 23 responses.

Estimated Time per Response: 2.5 hours–5 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for these collections is contained in the *Civil Rights Act of 1964* § 7, as amended, 42 U.S.C. 2000e; *Age Discrimination in Employment act of 1967* (ADEA), 29 U.S.C. 621–634; *Americans with Disabilities Act of 1990* (ADA), as amended, 42 U.S.C. 12101–12213; *Rehabilitation Act of 1973,* as amended, 29. U.S.C. 501 *et seq.*

Total Annual Burden: 67 hours.

Total Annual Cost: $8,000.

Privacy Act Impact Assessment: Yes. The PII in this information collection is covered by the Equal Employment Opportunity Commission's Government-wide System of Records Notice or ''SORN,'' EEOC/GOVT–1, Equal Employment Opportunity in the Federal Government's Complaint and Appeal Records.

Nature and Extent of Confidentiality: Confidentiality of information will be provided in accordance with the Privacy Act. The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: FCC employees and related individuals may seek a forum through the Office of Workplace Diversity to resolve, investigate, and issue Final Agency Decisions regarding allegations of discrimination and/or retribution or reprisals by completing FCC Form-5621 and/or FCC Form-5622.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–06155 Filed 3–23–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1003; FRS 16575]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 26, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1003.

Title: Communications Disaster Information Reporting System (DIRS).

Form No.: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; Federal Government; and/or State, local or tribal governments.

Number of Respondents and Responses: 400 Respondents and 104,000 responses.

Estimated Time per Response: 0.1–0.5 Hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Mandatory and Voluntary. For Support Recipients, the obligation to report is mandatory. For all other DIRS participants, the obligation to report is voluntary. Statutory authority for collecting this information from satellite providers is contained in 47 U.S.C. 151 et. seq., 154(i), 218, 303(r) of the Communications Act of 1934, as amended.

Total Annual Burden: 16,320 Hours.

Total Annual Costs: No Cost(s).

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The information collection from respondents shall be treated as presumptively confidential upon filing. The Commission will limit direct access to DIRS reports to select Commission staff and, with protections at least as strong as required by the Freedom of Information Act (FOIA), with select federal and potentially state agency partners, including the Department of Homeland Security (DHS). The Commission will not publish the individual submissions but may publish this information on an aggregated basis in daily communications status reports. The Commission will also work with respondents to ensure that any concerns regarding the confidentiality of their DIRS filings are resolved in a manner consistent with Commission rules.

Needs and Uses: The Commission launched DIRS in 2007 pursuant to its mandate to promote the safety of life and property through the use of wire and radio communication as required by the Communications Act of 1934, as amended. DIRS is a voluntary, efficient and web-based system that communications companies may use to report their infrastructure status during times of crisis (*e.g.,* related to a disaster). DIRS uses a number of template forms tailored to different communications sectors (*i.e.,* wireless, wireline, broadcast, and cable) to facility the entry of this information. To use DIRS, a company first inputs its emergency contact information. After this, they submit information using the template form appropriate for their communications sector. OMB initially approved the DIRS information collection in 2007 under OMB Control Number 3060–1003, and OMB has approved multiple revisions and extensions of the collection since that time. (*See* OMB Control No. 3060–1003; 07/21/2007; 06/08/2012; 07/02/2015; 07/17/2018.)

The Commission is now revising the DIRS information collection to provide for one new form tailored to satellite communications providers and to update its previous burden estimates. First, the new form has the same general scope as existing forms, already approved by OMB, but is tailored to satellite providers' networks. Since OMB's 2007 approval, satellite providers have been expressly authorized to participate in DIRS, but DIRS does not currently include a tailored form for them to do so. Collecting this information from satellite providers via DIRS is necessary to meet the Commission's goals of restoring communications quickly and ensuring that emergency and defense personnel have access to effective communications during disaster events, thus helping fulfill the Commission's public safety mandate.

Second, as a part of the Commission's response to the 2017 hurricane season, the Commission adopted the *PR and USVI Funds Order* to improve Puerto Rico and the U.S. Virgin Island's communications networks' resiliency and recovery efforts, amongst other purposes. (*PR and USVI Funds Order,* FCC 19–95, para. 1–9). The *PR and USVI Funds Order* requires Support Recipients to report in DIRS. The Commission requests a revision of the currently approved collection to include mandatory DIRS reporting for Support Recipients. Mandatory DIRS reporting will allow the Commission to track networking hardening efforts and increase Support Recipients' accountability, which the Commission expects will improve network hardening efforts and make networks more resilient in future. The *PR and USVI Funds Order* does not otherwise alter DIRS.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–06093 Filed 3–23–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0390; FRS 16587]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 26, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0390.

Title: Broadcast Station Annual Employment Report, FCC Form 395–B.

Form Number: FCC–395–B.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions.

Number of Respondents and Responses: 14,000 respondents, 14,000 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority of this collection of information is contained in 47 U.S.C. 154(i) and 334.

Total Annual Burden: 14,000 hours.

Total Annual Cost: No Cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 395–B, the ''Broadcast Station Annual Employment Report,'' is a data collection device used by the Commission to assess industry employment trends and provide reports

to Congress. By the form, broadcast licensees and permittees identify employees by gender and race/ethnicity in ten specified major job categories in the form.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–06154 Filed 3–23–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Temporary Suspension of In-Person Hearings

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice.

SUMMARY: The Federal Mine Safety and Health Review Commission (the ''Commission'') is temporarily suspending all in-person hearings, and settlement judge conferences and mediations.

DATES: *Applicable:* March 18, 2019.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434–9935.

SUPPLEMENTARY INFORMATION: Pursuant to guidance issued by the Office of Management and Budget (M–20–16) and in view of the risks presented by the novel coronavirus COVID–19, the Commission's Office of the Chief Administrative Law Judges (''OCALJ'') is, effective March 18, 2019, suspending all in-person hearings, and settlement judge conferences and mediations until Friday, April 30, 2020.

With the consent of the parties and in coordination with the presiding administrative law judge, hearings may continue by telephone or other means. Similarly, settlement judge conferences and mediations may be held by telephone or by other means. If the parties agree that an in-person evidentiary hearing is not needed, cases may also be presented for a decision on the record.

The parties will be notified if the hearing needs to be rescheduled. OCALJ will reassess the risks presented by in-person hearings prior to April 30, 2020, and issue a subsequent order informing the public as to whether the suspension of in-person hearings will continue.

The presiding administrative law judge may be contacted with questions regarding this notice.

Authority: 30 U.S.C. 823.

Dated: March 18, 2020.

Sarah L. Stewart,

Deputy General Counsel, Federal Mine Safety and Health Review Commission.

[FR Doc. 2020–06113 Filed 3–23–20; 8:45 am]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 22, 2020.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23219. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *CSBH, LLC, Baltimore, Maryland;* to become a bank holding company through the acquisition of New Horizon Bank, National Association, Powhatan, Virginia.

Board of Governors of the Federal Reserve System, March 18, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–06094 Filed 3–23–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

No Sail Order and Suspension of Further Embarkation

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), a component of the Department of Health and Human Services (HHS), announces the issuance of a No Sail Order and Suspension of Further Embarkation on March 14, 2020 for all cruise ships that are not voluntarily suspending operation.

DATES: This action was effective March 14, 2020.

FOR FURTHER INFORMATION CONTACT: Jennifer Buigut, Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS V18–2, Atlanta, GA 30329. Phone: 404–498–1600. Email: *dgmqpolicy@cdc.gov.*

SUPPLEMENTARY INFORMATION: On March 14, 2020, the Director of the Centers for Disease Control and Prevention issued the following No Sail Order and Other Measures Related to Operations. A copy of the order is provided below and a copy of the signed order can be found at *https://www.cdc.gov/quarantine/cruise/index.html.*

U.S. Department of Health and Human Services Centers for Disease Control and Prevention (CDC) Order Under Sections 361 & 365 of the Public Health Service Act (42 U.S.C. 264, 268) and 42 Code of Federal Regulations Part 70 (Interstate) and Part 71 (Foreign): No Sail Order and Other Measures Related to Operations

Applicability

This Notice of No Sail Order and Other Measures Related to Operations shall apply only to the subset of carriers [1] described below and hereinafter referred to as ''cruise ships,'' except this Order shall not apply to any cruise ship that voluntarily suspends operations for the period of this Order:

All commercial, non-cargo,[2] passenger-carrying vessels operating in

[1] Carrier is defined by 42 CFR 71.1 to mean ''a ship, aircraft, train, road vehicle, or other means of transport, including military.''

[2] Given the substantial risk of person-to-person transmission of COVID–19, as opposed to transmission via indirect contact, this Order is currently limited to passenger, non-cargo vessels.

international, interstate, or intrastate waterways and subject to the jurisdiction of the United States with the capacity to carry 250 [3] or more individuals (passengers and crew) with an itinerary anticipating an overnight stay onboard or a twenty-four (24) hour stay onboard for either passengers or crew.[4]

General Background

COVID–19 is a communicable disease caused by a novel (new) coronavirus, SARS–CoV–2, that was first identified as the cause of an outbreak of respiratory illness that began in Wuhan, China. The virus is thought to spread primarily by person-to-person contact through respiratory droplets produced when an infected person coughs or sneezes; it may also spread through contact with contaminated surfaces or objects. Manifestations of severe disease have included severe pneumonia, acute respiratory distress syndrome (ARDS), septic shock, and multi-organ failure. According to the World Health Organization (WHO), approximately 3.6% of reported COVID–19 cases have resulted in death globally. This mortality rate is higher among the elderly or those with compromised immune systems. Older adults and people who have severe chronic medical conditions like heart, lung, or kidney disease are also at higher risk for more serious COVID–19 illness. Early data suggest older people are twice as likely to have serious COVID–19 illness.

On January 30, 2020, the Director General of the WHO declared that the outbreak of COVID–19 constitutes a Public Health Emergency of International Concern under the International Health Regulations. The following day, the Secretary of the Department of Health and Human Services (HHS) declared that COVID–19 constitutes a public health emergency under the Public Health Service Act. To date, CDC has issued Level 3 Travel Health Notices recommending that travelers avoid all nonessential travel to China, Iran, South Korea, and most of Europe; the U.S. Department of State has issued a global Level 3 Health Advisory directing U.S. citizens to reconsider all travel abroad due to the global impact of COVID–19 and Level 4 Travel Advisories (Do Not Travel) for China, Iran, and certain parts of Italy. In addition, CDC has recommended that travelers, particularly those with underlying health conditions, avoid all cruise ship travel worldwide; the U.S. Department of State has similarly issued guidance that U.S. citizens should not travel by cruise ship at this time. As of March 11, 2020, the President of the United States has suspended entry to the U.S. by most foreign nationals who have recently visited China, Iran, and most of Europe due to COVID–19. On March 11, 2020, the WHO declared the COVID–19 outbreak a pandemic. As of March 13, 2020, there have been over 132,000 cases of COVID–19 globally in over 122 locations resulting in over 4,950 deaths; more than 1,620 cases have been identified in the United States, with new cases being reported daily and over 41 deaths due to the disease. A Presidential Declaration of National Emergency concerning COVID–19 was issued on March 13, 2020.

Global efforts to slow transmission have included drastic control measures with substantial societal and economic impact. Countries such as Russia, Australia, the Philippines, Japan, Israel, and the United States have imposed stringent restrictions on travelers who have recently been in China. Similar travel restrictions have since been imposed on individuals from countries experiencing substantial outbreaks, including Iran, South Korea, and Europe. In many countries, including the United States, citizens, permanent residents, and their close relatives returning from areas known to have high rates of infection are being requested to self-quarantine for 14 days (a period estimated to encompass the incubation period for the virus) following return from countries with sustained community transmission. Despite these unprecedented global efforts at containment, cases of COVID–19 have been shown to rapidly propagate, crossing international borders with ease. For example, the Islamic Republic of Iran has seeded at least 97 COVID–19 cases in 11 other countries, as reported by the WHO, and as of March 9, 2020, the Schengen Area of Europe has exported 201 COVID–19 cases to 53 countries.

In the United States, community transmission has occurred in Washington State, California, and New York. CDC is closely monitoring COVID–19 transmission and is supporting state and local health departments in conducting contact tracing investigations of confirmed COVID–19 cases identified in the United States. These investigations are complex and resource intensive; persons identified as infected or at-risk can require observation, movement restriction (such as isolation or quarantine), clinical evaluation, and care. Public health authorities in the United States are working concurrently to contain the spread of the disease and mitigate its impact.

Risk of Transmission on Cruise Ships

Cruise ships often involve the movement of a number of people in closed and semi-closed settings. Cruises vary in size, with larger cruises involving populations of more than 4,000 passengers and crew. Like other close-contact environments, cruise ships facilitate transmission of COVID–19.

There are several features of cruise ships that increase the risk of COVID–19 transmission. A hallmark of cruise travel is the number and variety of person-to-person contacts an individual passenger may have daily. The dynamics of passenger-to-passenger, passenger-to-crew, crew-to-passenger, and crew-to-crew intermingling in a semi-closed setting are particularly conducive to SARS–CoV–2 spread, resulting in high transmission rates. Cruises include frequent events that bring passengers and crew close together, including group and buffet dining, entertainment events, and excursions. Cruise ship cabins are small, increasing the risk of transmission between cabinmates. Close quartering is a particular concern for crew, who typically eat and sleep in small, crowded spaces. Infection among crew members may lead to transmission on sequential cruises on the same vessel because crew members may continue working and living onboard the ship from one cruise to the next. Crew from one ship may in turn serve onboard multiple different ships for subsequent voyages, which also has the potential to amplify transmission.

Transmission of COVID–19 on cruise ships may also be amplified by

[3] Based on substantial epidemiological evidence related to congregate settings and mass gatherings, this Order suspends operation of vessels with the capacity to carry 250 individuals or more. Evidence shows that settings as small as nursing homes or movie theaters can proliferate the spread of a communicable disease. As the numbers of passengers and crew onboard a ship increases, certain recommended mitigation efforts such as social distancing become more difficult to implement. In light of the demonstrated rapid spread of this communicable disease in current cruise ship settings, application of this Order to vessels carrying 250 or more individuals is a prudent and warranted public health measure. Moreover, the management of current coronavirus cases in addition to existing seasonal care needs (*e.g.,* influenza) has placed an extreme burden on the public health and healthcare systems and this Order will help avoid further stressing those systems.

[4] This order shall not apply to vessels operated by a U.S. Federal or State government agency. Nor shall it apply to vessels being operated solely for purposes of the provision of essential services, such as the provision of medical care, emergency response, activities related to public health and welfare, or government services, such as food, water, and electricity.

difficulty decontaminating numerous surfaces in common areas. Contamination of frequently touched surfaces, such as door handles and faucets in public toilet rooms, elevator buttons, handrails in stairs and passageways, and utensils/dispensing mechanisms (for beverages) in self-service buffets, etc., is also likely to be a significant factor in transmission. Less obvious examples of frequently touched surfaces, include playing cards, slot machine levers, and chips in the casino; computer keyboards in the internet café; books, puzzles, and games in the library; gym equipment; counters and surfaces in gift shops; and the cruise card used by passengers to pay/register for everything on board and exit/enter the ship in port. The high volume of people on board a cruise ship and wealth of high-touch surfaces make successful control of this method of transmission very difficult.

Moreover, the nature of cruise travel presents additional opportunities for spread of the disease to ports of calls and passengers' home communities. During a cruise, disembarkation of passengers at sequential ports of call under uncontrolled conditions may lead to disease transmission in those ports. Once a cruise concludes, passengers residing in different countries or throughout the United States may require air transportation or other types of common carriers to return home. Return of disembarked infected passengers to their communities could lead to widespread, interstate disease transmission.

Quarantine and isolation measures are difficult to implement effectively onboard a cruise ship and only occur after an infection has already been identified onboard a cruise. If ships are at capacity, it may not be feasible to fully separate ill and well persons onboard the ship, particularly among the crew. Because crew are required to continue working to keep a ship safely operating, effective quarantine for crew is particularly challenging.

Already Observed Impact of Cruise Ship Travel in General and in the U.S.

Cruise ship travel has already been associated with a number of COVID–19 clusters and outbreaks, including on the Diamond Princess (Asia) and the Grand Princess (California to Mexico, California to Hawaii). The threat of spread is not limited to larger cruise ships. An outbreak onboard a Nile River cruise with 171 passengers and crew (29 of which were American citizens) resulted in 45 confirmed COVID–19 cases (3 of which are American citizens). Many of these passengers returned home before any notifications about COVID–19 were provided, potentially spreading the disease to their home communities. Evidence of COVID–19 transmission onboard six similar Nile River cruise ships, each carrying approximately 100 passengers, illustrates that even ships with moderate numbers of passengers and crew onboard carry a substantial risk of disease transmission and outbreak.

The initial stages of the COVID–19 epidemic were marked by the outsized role of a single cruise ship, the Diamond Princess in Yokohama, Japan, which for a period of 18 days was the setting for the largest number of cases outside the original epicenter in China. The outbreak of COVID–19 onboard the Diamond Princess demonstrates the speed and extent of disease transmission that can occur onboard cruise ships. Despite quarantine and isolation efforts, more than 700 cases of infection with the virus that causes COVID–19 were identified among Diamond Princess passengers and crew during the three weeks following the identification of one case of COVID–19 in a person who was symptomatic before leaving the ship. There are several cases of severe disease associated with the Diamond Princess, including at least six deaths. Additionally, approximately half of the infected passengers did not report symptoms at the time their infections were diagnosed.

On March 4, 2020, Placer County, California officials reported the death of a passenger who had been onboard the Grand Princess cruise ship during a voyage from February 11–21, 2020 (Sailing A) and was a confirmed COVID–19 case. As of March 7, 2020, there were 22 presumptive positive cases of COVID–19 among persons who were onboard Sailing A. The Grand Princess left San Francisco for a second sailing on February 21 (Sailing B). Sixty-eight passengers and most of the crew from Sailing A were also on Sailing B. While testing of those who were onboard Sailing B continues, to date, 22 crew and 8 passengers have tested positive for COVID–19. As a result of the outbreak onboard the Grand Princess, the Federal government engaged in a massive effort to disembark and quarantine American passengers from the ship on four military bases to help prevent further transmission to the passengers' home communities. Passengers from Sailing A were from more than 30 U.S. states and 25 countries; Sailing B included passengers from over 50 countries. More than 70 persons from this voyage have reported symptoms and require assessment and evaluation and additional confirmed cases in multiple states/countries are anticipated.

The Director Has Reason To Believe That Cruise Ship Travel May Continue To Introduce, Transmit, or Spread COVID–19

Cruise ship travel markedly increases the risk and impact of the COVID–19 disease outbreak within the United States. Disembarkation of passengers at sequential ports may lead to disease transmission in those ports. Return of disembarked infected passengers to their communities could lead to widespread disease transmission. Cases that have been confirmed to date may have led to secondary transmission, including in a healthcare worker.

Furthermore, the passenger population of cruises often includes a substantial number of older adults, meaning there is higher risk for COVID–19 morbidity and mortality. Industry trade publications report that 51% of cruise ship passengers are over the age of 50. The median age of passengers onboard the Grand Princess Sailing B, for example, was 66 and 1,200 passengers on the ship were over age 70. Given these demographics, many cruise passengers are at high risk for severe disease if they become infected.

Beyond the risk to these individuals, the intensive care requirements for cruise ship passengers with severe disease stresses a healthcare system already overburdened and facing a shortage of beds needed for influenza and other seasonal and critical healthcare conditions. The addition of further cruise ship cases place healthcare workers at substantial increased risk. Specifically, these cases divert medical resources away from persons with other medical problems and other COVID–19 cases, consuming precious diagnostics, therapeutics, and protective equipment. Ongoing concerns with cruise ship transmission also draw valuable resources away from the immense Federal, state, and local effort to contain and mitigate the spread of COVID–19. Safely evacuating, triaging, quarantining, and repatriating cruise ship passengers involves complex logistics, incurs financial costs at all levels of government, and diverts resources away from larger efforts to suppress or mitigate the virus.

Coordination Efforts With the Cruise Ship Industry

To address the continued and significant risks and burdens posed by ongoing cruise ship operations, CDC and other Federal agencies have engaged with representatives from

Cruise Lines International Association (''CLIA''), the leading industry trade group. To that end, CLIA members and certain individual cruise lines have voluntarily taken steps to try to mitigate the impact of the spread of COVID–19. On March 13, 2020, CLIA and their associated members announced that all member cruise lines would voluntarily suspend cruise ship operations from U.S. ports of call for 30 days as public health officials and the Federal government continue to address COVID–19. The Federal government recognizes the enormity and importance of this action taken by CLIA and the commitment it demonstrates to protecting the health of both cruise ship passengers and the public at large. Following the example set by CLIA members, additional cruise lines have also voluntarily suspended operations from U.S. ports of call. Although the CLIA members and the additional cruise lines implementing a voluntary suspension of operations represent a large majority of the cruise industry, not all cruise lines or ships have announced a voluntary suspension of operations or that they will follow the important example set by CLIA members. This Order is intended to cover and specifically apply to those cruise lines or ships that do not undertake a voluntary suspension of operations. As a result, this Order specifically excludes from applicability any cruise line or ship that voluntarily suspends operations for the period of this Order, as CLIA members have done.

Findings and Immediate Action

Accordingly, and consistent with 42 CFR 71.32(b), the Director of CDC (''Director'') finds evidence to support a reasonable belief that cruise ships are or may become infected or contaminated with a quarantinable communicable disease.[5] This reasonable belief is based on information from epidemiologic and other data regarding the nature and transmission of COVID–19 on cruise ships from the recent outbreaks onboard the Diamond Princess, Grand Princess, and other cruise ships. As a result, cruise ship passengers may be infected with or exposed to COVID–19 by virtue of having been onboard a cruise ship at a time when cases of COVID–19 are being reported in significant numbers globally and specifically on cruise ships, when testing is available. The Director also finds that cruise ship travel may exacerbate the global spread of COVID–19. The scope of this pandemic is inherently and necessarily a problem that is international and interstate in nature, and cannot be controlled sufficiently by the cruise ship industry or individual state or local health authorities. Accordingly, under 42 CFR 70.2, the Director determines that measures taken or likely to be taken by state and local health authorities regarding COVID–19 onboard cruise ships are inadequate to prevent the further interstate spread of the disease.

The Director further determines that this Order provides public health authorities, in concert with the cruise ship industry, the necessary pause in operations to develop and implement an appropriate and robust plan to prevent and mitigate the spread of COVID–19, and acts to prevent the spread of the disease and ensure cruise ship passenger and crew health.

Therefore, in accordance with Sections 361 and 365 of the Public Health Service Act (42 U.S.C. 264, 268) and 42 CFR 70.2, 71.32(b), for all cruise ships not voluntarily suspending operations for the period described below, it is *ordered:*

1. Cruise ship operators shall be allowed to disembark passengers and crew members at ports or stations only as directed by the United States Coast Guard (USCG), in consultation with HHS/CDC personnel and, as appropriate, as coordinated with Federal, state, and local authorities.

2. Cruise ship operators shall not reembark any crew member, except as approved by USCG, in consultation with HHS/CDC personnel, until further notice.

3. Cruise ship operators shall not embark any new passengers or crew, except as approved by USCG, or other Federal authorities as appropriate, in consultation with HHS/CDC personnel.

4. Cruise ship operators shall not commence or continue operations (*e.g.,* shifting berths, moving to anchor, or discharging waste), except as approved by USCG, in consultation with HHS/CDC personnel, until further notice.

5. While in port, the cruise ship operator shall observe health precautions as directed by HHS/CDC personnel.

6. The cruise ship operator shall comply with all HHS/CDC, USCG, and other Federal agency instructions to follow CDC recommendations and guidance for any public health actions relating to passengers, crew, ship, or any article or thing on board the ship, as needed, including by making ship's manifests and logs available and collecting any specimens for COVID–19 testing.

7. This order does not prevent the periodic reboarding of the ship by HHS/CDC personnel and/or USCG and/or other Federal, state, or local agencies or the taking on of ships' stores and provisions under the supervision of HHS/CDC personnel and/or USCG.

8. This order does not prevent the ship from taking actions necessary to maintain the seaworthiness or safety of the ship, or the safety of harbor conditions, such as movement to establish safe anchorage, or as otherwise directed by USCG personnel.

CDC may modify this order by an updated publication in the **Federal Register** or by posting an advisory to follow at *www.cdc.gov.*

Authority

The authority for these orders is Sections 361 and 365 of the Public Health Service Act (42 U.S.C. 264, 268) and 42 CFR 70.2, 71.32(b).

Dated: March 19, 2020.

Robert R. Redfield,

Director, Centers for Disease Control and Prevention.

[FR Doc. 2020–06166 Filed 3–23–20; 8:45 am]

BILLING CODE 4163–18–P

[5] COVID–19 is a communicable disease for which quarantine is authorized under Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.1, 71.1, as listed in Executive Order 13295, as amended by Executive Orders 13375 and 13674.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10468, CMS–10418, CMS–10488, CMS–R–290 and CMS–10525]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions,

the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 26, 2020.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10468 Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes, and Premiums and Cost Sharing; Exchanges: Eligibility and Enrollment

CMS–10418 Annual MLR and Rebate Calculation Report and MLR Rebate Notices

CMS–10488 Consumer Experience Survey Data Collection

CMS–R–290 Medicare Program: Procedures for Making National Coverage Decisions

CMS–10525 PACE Quality Data Monitoring and Reporting

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''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 requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes, and Premiums and Cost Sharing; Exchanges: Eligibility and Enrollment; *Use:* The Exchanges, which became operational on January 1, 2014, enhanced competition in the health insurance market, expanded access to affordable health insurance for millions of Americans, and provided consumers with a place to easily compare and shop for health insurance coverage. The reporting requirements and data collection in Medicaid, Children's Health Insurance Programs, and Exchanges: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes, and Premiums and Cost Sharing; Exchanges: Eligibility and Enrollment (CMS–2334–F) address: (1) Standards related to notices, (2) procedures for the verification of enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan; and (3) other eligibility and enrollment provisions to provide detail necessary for state implementation. The submission seeks OMB approval of the information collection requirements associated with selected provisions in 45 CFR parts 155, 156 and 157. *Form Number:* CMS–10468 (OMB control number: 0938–1207); *Frequency:* Annually; *Affected Public:* Individuals, Households and Private Sector; *Number of Respondents:* 1,522; *Total Annual Responses:* 9,533; *Total Annual Hours:* 103,710. For policy questions regarding this collection contact Anne Pesto at 443–844–9966.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Annual MLR and Rebate Calculation Report and MLR Rebate Notices; *Use:* Under Section 2718 of the Affordable Care Act and implementing regulation at 45 CFR part 158, a health insurance issuer (issuer) offering group or individual health insurance coverage must submit a report to the Secretary concerning the amount the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes and licensing and regulatory fees, the amount of earned premium, and beginning with the 2014 reporting year, the amounts related to the transitional reinsurance, risk corridors, and risk adjustment programs established under sections 1341, 1342, and 1343, respectively, of the Affordable Care Act. An issuer must provide an annual rebate if the amount it spends on certain costs compared to its premium revenue (excluding Federal and States taxes and licensing and regulatory fees) does not meet a certain ratio, referred to as the medical loss ratio (MLR). Each issuer is required to submit annually MLR data, including information about any rebates it must provide, on a form prescribed by CMS, for each State in which the issuer conducts business. Each issuer is also required to provide a rebate notice to each policyholder that is owed a rebate and each subscriber of policyholders that are owed a rebate for any given MLR reporting year. Additionally, each issuer is required to maintain for a period of seven years all documents, records and other evidence that support the data included in each issuer's annual report to the Secretary.

Based upon CMS' experience in the MLR data collection and evaluation process, CMS is updating its annual burden hour estimates to reflect the actual numbers of submissions, rebates and rebate notices.

The 2019 MLR Reporting Form and Instructions reflect changes for the 2018 reporting year and beyond. The 2019 MLR Reporting Form and instructions are also modified to eliminate the reporting elements that were required under the risk corridors data submission

requirements in 45 CFR 153.530 for the 2014 through 2016 benefit years. For 2019, it is expected that issuers will submit fewer reports and on average, send fewer notices and rebate checks in the mail to policyholders and subscribers, which will reduce burden on issuers. In addition, issuers of qualified health plans will no longer have to submit on the annual report the data for the risk corridors program established under section 1342 of the Patient Protection and Affordable Care Act. *Form Number:* CMS–10418 (OMB control number: 0938–1164); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 494; *Number of Responses:* 1,896; *Total Annual Hours:* 232,427. For policy questions regarding this collection contact Stephanie Watson at 301–492–4238.

3. *Type of Information Collection Request:* Renewal of a currently approved collection; *Title of Information Collection:* Consumer Experience Survey Data Collection; *Use:* Section 1311(c)(4) of the Affordable Care Act requires the Department of Health and Human Services (HHS) to develop an enrollee satisfaction survey system that assesses consumer experience with qualified health plans (QHPs) offered through an Exchange. It also requires public display of enrollee satisfaction information by the Exchange to allow individuals to easily compare enrollee satisfaction levels between comparable plans. HHS established the QHP Enrollee Experience Survey (QHP Enrollee Survey) to assess consumer experience with the QHPs offered through the Marketplaces. The survey includes topics to assess consumer experience with the health care system such as communication skills of providers and ease of access to health care services. CMS developed the survey using the Consumer Assessment of Health Providers and Systems (CAHPS®) principles (*https://www.ahrq.gov/cahps/about-cahps/principles/index.html*) and established an application and approval process for survey vendors who want to participate in collecting QHP enrollee experience data.

The QHP Enrollee Survey, which is based on the CAHPS® Health Plan Survey, will be used to (1) help consumers choose among competing health plans, (2) provide actionable information that the QHPs can use to improve performance, (3) provide information that regulatory and accreditation organizations can use to regulate and accredit plans, and (4) provide a longitudinal database for consumer research. Based on the requirements for the QHP Enrollee Survey, CMS developed this survey to capture information about enrollees' experience with QHPs offered through an Exchange. CMS conducted in-depth formative research including: A comprehensive literature review, review of existing CMS survey instruments, consumer focus groups, stakeholder discussions, and input from a Technical Expert Panel (TEP). CMS performed a psychometric test and beta test in 2014 and 2015, respectively. CMS began fielding the QHP Enrollee Survey nationwide in 2016 and this request is to continue nationwide collection and administration of the statutorily-required survey in 2021 through 2023. These activities are necessary to ensure that CMS fulfills legislative mandates established by section 1311(c)(4) of the Affordable Care Act to develop an ''enrollee satisfaction survey system'' and provide such information on Exchange websites. *Form Number:* CMS–10488 (OMB Control Number: 0938–1221); *Frequency:* Annually; *Affected Public:* Public sector (Individuals and Households), Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 285; *Total Annual Responses:* 82,510; *Total Annual Hours:* 15,141. For policy questions regarding this collection contact Nidhi Singh Shah at 301–492–5110.

4. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title:* Medicare Program: Procedures for Making National Coverage Decisions; *Use:* This collection is required by a notice (78 FR 48164–69) published on August 7, 2013 which delineates the process for making a national coverage determination (NCD) including information for external parties to submit a formal request for a new NCD or a reconsideration of an existing NCD. An NCD is defined in 1862(l) of the Social Security Act (the Act) as ''a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under this title.'' This information collection will assist us in obtaining the information we require to make a national coverage determination in a timely manner and ensuring that the Medicare program continues to meet the needs of its beneficiaries. *Form Number:* CMS–R–290 (OMB control number: 0938–0776); *Frequency:* Annual; *Affected Public:* Private Sector: Business or other for-profits; *Number of Respondents:* 30; *Total Annual Responses:* 30; *Total Annual Hours:* 1,200. (For policy questions regarding this collection contact Lori M. Ashby at 410–786–6322.)

6. *Type of Information Collection Request:* Revision with change of a previously approved collection; *Title:* PACE Quality Data Monitoring and Reporting; *Use:* The Programs of All-Inclusive Care for the Elderly (PACE) program is a unique model of managed care service delivery for the frail elderly, most of whom are dually-eligible for Medicare and Medicaid benefits. To be eligible to enroll in PACE, an individual must: Be 55 or older, live in the service area of a PACE organization (PO), need a nursing home-level of care (as certified by the state in which he or she lives), and be able to live safely in the community with assistance from PACE.

PACE organizations are responsible for providing all required Medicare and Medicaid covered services, and any other service that the interdisciplinary team (IDT) determines necessary to improve and maintain a participant's overall health condition (42 CFR 460.92). POs must also comply with the quality monitoring and reporting requirements outlined in §§ 460.140, 460.200(b)(1), 460.200(c) and 460.202. POs are also required to report certain unusual incidents to other Federal and State agencies consistent with applicable statutory or regulatory requirements (see 42 CFR 460.136(a)(5)). *Form Number:* CMS–R–10525 (OMB control number: 0938–1264); *Frequency:* Annual; *Affected Public:* Private Sector: Business or other for-profits; *Number of Respondents:* 131; *Total Annual Responses:* 1,143; *Total Annual Hours:* 156,414. (For policy questions regarding this collection contact Donna Williamson at 410–786–4647.)

Dated: March 18, 2020.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–06077 Filed 3–23–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10302, CMS–R–297/CMS–L564, CMS–4040, CMS–379 and CMS–10316]

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

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. 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 or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by April 23, 2020.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

1. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''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 publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Collection Requirements for Compendia for Determination of Medically-accepted Indications for Off-label Uses of Drugs and Biologicals in an Anti-cancer Chemotherapeutic Regimen; *Use:* Section 182(b) of the Medicare Improvement of Patients and Providers Act (MIPPA) amended section 1861(t)(2)(B) of the Social Security Act (42 U.S.C. 1395x(t)(2)(B)) by adding at the end the following new sentence: 'On and after January 1, 2010, no compendia may be included on the list of compendia under this subparagraph unless the compendia has a publicly transparent process for evaluating therapies and for identifying potential conflicts of interest.' We believe that the implementation of this statutory provision that compendia have a ''publicly transparent process for evaluating therapies and for identifying potential conflicts of interests'' is best accomplished by amending 42 CFR 414.930 to include the MIPPA requirements and by defining the key components of publicly transparent processes for evaluating therapies and for identifying potential conflicts of interests.

All currently listed compendia will be required to comply with these provisions, as of January 1, 2010, to remain on the list of recognized compendia. In addition, any compendium that is the subject of a future request for inclusion on the list of recognized compendia will be required to comply with these provisions. No compendium can be on the list if it does not fully meet the standard described in section 1861(t)(2)(B) of the Act, as revised by section 182(b) of the MIPPA. *Form Number:* CMS–10302 (OMB control number: 0938–1078); *Frequency:* Annually; *Affected Public:* Business and other for-profits and Not-for-profit institutions; *Number of Respondents:* 845; *Total Annual Responses:* 900; *Total Annual Hours:* 5,135. (For policy questions regarding this collection contact Sarah Fulton at 410–786–2749.)

2. *Type of Information Collection Request:* Reinstatement without change of a currently approved collection; *Title of Information Collection:* Request for Employment Information; *Use:* The form CMS–L564, also referred to as CMS–R–297, is used, in conjunction with form CMS–40–B, Application for Supplementary Medical Insurance, during an individual's special enrollment period (SEP). Completed by an employer, the CMS–L564 provides proof of an applicant's employer group health coverage. The Social Security Administration (SSA) uses it to obtain information from employers regarding whether a Medicare beneficiary's coverage under a group health plan is based on current employment status. This form is available in both English and Spanish.

Section 1837(i) of the Social Security Act (the Act) provides a SEP for individuals who delay enrolling in Medicare Part B because they are covered by a group health plan based on their own or a spouse's current employment status. Disabled individuals with Medicare may also delay enrollment because they have large group health plan coverage based on their own or a family member's current employment status. When these individuals apply for Medicare Part B, they must provide proof that the group health plan coverage is (or was) based on current employment status. Form CMS L564 provides this proof so that

SSA can determine eligibility for the SEP. Individuals eligible for the SEP can enroll in Part B without incurring a late enrollment penalty. Individuals may also use this form to prove that their group health plan coverage is based on current employment status and to have the assessed Medicare late enrollment penalty reduced. The form is available online via *Medicare.gov* and *CMS.gov* for individuals who are requesting the SEP to obtain and submit to their employer for completion. The employer must complete and sign the form, and submit it to the individual to accompany their enrollment or late enrollment penalty reduction request. The information on the completed form is reviewed manually by SSA. Thus, the collection of this information does not involve the use of information technology. *Form Number:* CMS–R–297/CMS–L564 (OMB control number: 0938–0787); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 15,000; *Total Annual Responses:* 15,000; *Total Annual Hours:* 1,250. (For policy questions regarding this collection contact Carla D. Patterson, at 410–786–1000.)

3. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Request for Enrollment in Supplementary Medical Insurance (SMI) and Supporting Regulations in 42 CFR 407.10, 407.11 and 408.40(a)(2); *Use:* Section 1836 of the Social Security Act, and CMS regulations at 42 CFR 407.10, provide the eligibility requirements for enrollment in Part B for individuals age 65 and older who are not entitled to premium-free Part A. The individual must be a resident of the United States, and either a U.S. Citizen or an alien lawfully admitted for permanent residence that has lived in the US continually for 5 years. CMS regulations 42 CFR 407.11 lists the CMS–4040 as the application to be used by individuals who are not eligible for monthly Social Security/Railroad Retirement Board benefits or free Part A.

The CMS–4040 solicits the information that is used to determine entitlement for individuals who meet the requirements in section 1836 as well as the entitlement of the applicant or their spouses to an annuity paid by OPM for premium deduction purposes. The application follows the application questions and requirements used by SSA. This is done not only for consistency purposes but to comply with other Title II and Title XVIII requirements because eligibility to Title II benefits and free Part A under Title XVIII must be ruled out in order to qualify for enrollment in Part B only. *Form Number:* CMS–4040 (OMB control number: 0938–0245); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 29,663; *Total Annual Responses:* 29,663; *Total Annual Hours:* 7,416 hours. (For policy questions regarding this collection contact Carla D. Patterson, at 410–786–1000.)

4. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Financial Statement of Debtor *Use:* When a Medicare Administrative Contractor (MAC) overpays a physician or supplier, the overpayment is associated with a single claim, and the amount of the overpayment is moderate. In these cases, the physician/supplier usually refunds the overpaid amount in a lump sum. Alternatively, the MAC may recoup the overpaid amount against future payments. A recoupment is the recovery by Medicare of any outstanding Medicare debt by reducing present or future Medicare payments and applying the amount withheld to the indebtedness. The recoupment can be made only if the physician/supplier accepts assignment since the MAC makes payment to the physician/supplier only on assigned claims.

The physician/supplier may be unable to refund a large overpaid amount in a single payment. The MAC cannot recover the overpayment by recoupment if the physician/supplier does not accept assignment of future claims, or is not expected to file future claims because of going out of business, illness or death. In these unusual circumstances, the MAC has authority to approve or deny extended repayment schedules up to 12 months, or may recommend to the Centers for Medicare and Medicaid Services (CMS) to approve up to 60 months. Before the MAC takes these actions, the MAC will require full documentation of the physician's/supplier's financial situation. Thus, the physician/supplier must complete the CMS–379, Financial Statement of Debtor.

Section 1893(f)(1)) of the Social Security Act and 42 CFR 401.607 provides the authority for collection of this information. Section 42 CFR 405.607 requires that, CMS recover amounts of claims due from debtors including interest where appropriate by direct collections in lump sums or in installments. *Form Number:* CMS–379 (OMB control number: 0938–0270); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 1,000 hours. (For policy questions regarding this collection contact Anita Crosier, at 410–786–0217.)

5. *Type of Information Collection Request:* Revision with change of a currently approved collection; *Title of Information Collection:* Implementation of the Medicare Prescription Drug Plan (PDP) and Medicare Advantage (MA) Plan Disenrollment Reasons Survey; *Use:* The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) provides a requirement to collect and report performance data for Part D prescription drug plans. Specifically, the MMA under Sec. 1860D–4 (Information to Facilitate Enrollment) requires CMS to conduct consumer satisfaction surveys regarding the PDP and MA contracts pursuant to section 1860D–4(d).

The Centers for Medicare & Medicaid Services (CMS) developed the Disenrollment Survey to capture the reasons for disenrollment at a time that is as close as possible to the actual date of disenrollment. Through this survey, CMS seeks to: (1) Obtain information about beneficiaries' expectations relative to provided benefits and services (for both MA and PDPs) and (2) determine the reasons that prompt beneficiaries to voluntarily disenroll. It is important to include such information from disenrollees as CMS assesses plan performance, because plan disenrollment can be a broad indicator of beneficiary dissatisfaction with some aspect of plan services, such as access to care, customer service, cost, benefits provided, or quality of care. Information obtained from the Disenrollment Survey also supports the quality improvement efforts of individual plans and provides data to assist consumer choice through use of the Medicare Plan Finder website.

The survey results are an important plan monitoring tool for CMS to ensure that Medicare beneficiaries are receiving high quality services from contracted providers. CMS uses information from the survey to track changes in the reasons Medicare beneficiaries cite for disenrolling to monitor improvements/declines over time nationally and at the plan level. CMS also uses the disenrollment survey results to support the quality improvement efforts of individual plans, by providing plans with a detailed, annual report showing the reasons disenrollees cited for voluntarily leaving the plan and comparing the plan's scores to regional and national benchmarks. Additionally, CMS uses the plan-specific results of the survey to provide Medicare beneficiaries with information (*i.e.,*

reasons cited for disenrolling from a plan and the frequency with which disenrollees cite each of the reasons) to assist beneficiaries with their annual consumer choice of plans. *Form Number:* CMS–10316 (OMB control number: 0938–1113); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 43,872; *Total Annual Responses:* 43,872; *Total Annual Hours:* 9,354. (For policy questions regarding this collection contact Beth Simon at 415–744–3780.)

Dated: March 18, 2020.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–06080 Filed 3–23–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Expedited OMB Review and Public Comment; Screening Tool for Unaccompanied Alien Children Program Staff and Visitors (New Collection)

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comment.

SUMMARY: The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting expedited review of an information collection request from the Office of Management and Budget (OMB) and inviting public comments on the proposed collection. The collection involves a risk questionnaire designed to identify potential coronavirus (COVID–19) among staff and visitors to Unaccompanied Alien Children (UAC) programs to ensure the life and safety of UAC in ORR care.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described in this notice.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: ACF is requesting that OMB grant a 180-day approval for this request under procedures for expedited processing. A request for review under normal procedures will be submitted within 180 days of the approval for this request. Any edits resulting from public comment will be incorporated into the submission under normal procedures. The COVID–19 risk questionnaire asks participants whether or not they display COVID–19 symptoms, whether or not they have had close contact with individuals known to test positive for COVID–19, and whether or not they have travel history to areas of sustained transmission of COVID–19.

Respondents: Staff and visitors at UAC program sites across the country.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual responses per respondent	Average burden hours per response	Annual burden hours
UAC COVID–19 Risk Questionnaire	15,000	260	.033	128,700

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 6 U.S.C. 279(b)(1)(B); (E).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–06244 Filed 3–23–20; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 30-Day Information Collection: Application for Participation in the IHS Scholarship Program

AGENCY: Indian Health Service, HHS.

ACTION: Notice and request for comments. Request for extension of approval.

SUMMARY: In compliance the Paperwork Reduction Act (PRA) of 1995, the Indian Health Service (IHS) invites the general public to comment on the information collection titled, ''Application for Participation in the IHS Scholarship Program,'' Office of Management and Budget (OMB) Control No. 0917–0006. IHS is requesting OMB to approve an extension for this collection, which expires on March 31, 2020. This proposed information collection project was previously published in the **Federal Register** on December 17, 2019, and allowed 60 days for public comment, as required by the PRA. The IHS received no comments regarding this collection. The purpose of this notice is to allow 30 days for public comment to be submitted directly to OMB.

DATES: *Comment Due Date:* April 23, 2020. Your comments regarding this

information collection are best assured of having full effect if received within 30 days of the date of this publication.

ADDRESSES: *Direct Your Comments to OMB:* Send your comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

SUPPLEMENTARY INFORMATION:

Information Collection

Title: ''Application for Participation in the IHS Scholarship Program,'' OMB Control No. 0917–0006. *Type of Information Collection Request:* Extension of the currently approved information collection ''Application for Participation in the IHS Scholarship Program,'' OMB Control No. 0917–0006. *Form Number(s):* IHS–856–07 through 856–16, IHS–856–19 through 856–23, IHS–817, and IHS–818 are retained for use by the IHS Scholarship Program (IHSSP) as part of this current Information Collection Request. Reporting forms are found on the IHS website at *www.ihs.gov/scholarship.* Forms IHS–856–03, IHS–856–05, and IHS–856–06 have been moved to the online application process and can be found at *www.ihs.gov/scholarship/applynow/. Need and Use of Information Collection:* The IHS Scholarship Branch needs this information for program administration and uses the information to: solicit, process, and award IHS Pre-graduate, Preparatory, and/or Health Professions Scholarship recipients; monitor the academic performance of recipients; and to place recipients at payback sites. The IHSSP application is electronically available on the internet at the IHS website at: *http://www.ihs.gov/scholarship/applynow/. Affected Public:* Individuals, not-for-profit institutions and State, local or Tribal Governments. *Type of Respondents:* Students pursuing health care professions.

The table below provides: Types of data collection instruments, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hours.

Data collection instrument(s)	Number of respondents	Responses per respondent	Total annual response	Burden hour per response *	Annual burden hours
Scholarship Online Application	850	1	850	1.00 (60 min)	850
Verification of Acceptance or Decline of Award (IHS–856–7).	300	1	300	0.13 (8 min)	39
Recipient's Initial Program Progress Report (IHS–856–8).	800	1	800	0.13 (8 min)	104
Notification of Academic Problem (IHS–856–9)	20	1	20	0.13 (8 min)	3
Change of Status (IHS–856–10)	50	1	50	.045 (25 min)	21
Request for Approval of Deferment (IHS–856–11)	60	1	60	0.13 (8 min)	8
Preferred Placement (IHS–856–12)	150	1	150	0.50 (30 min)	75
Notice of Impending Graduation (IHS–856–13)	170	1	170	0.17 (10 min)	28
Notification of Deferment Program (IHS–856–14)	60	1	60	0.13 (8 min)	8
Placement Update (IHS–856–15)	170	1	170	0.18 (11 min)	31
Annual Status Report (IHS–856–16)	200	1	200	0.25 (15 min)	50
Lost Stipend Payment (IHS–856–19)	10	1	10	0.13 (8 min)	2
Summer School Request (IHS–856–21)	100	1	100	0.10 (6 min)	10
Change of Name or Address (IHS–856–22)	20	1	20	0.13 (8 min)	3
Request for Credit Validation (IHS–856–23)	30	1	30	0.10 (6 min)	3
Scholarship Program Agreement (IHS–817)	60	1	60	0.16 (10 min)	10
Health Professions Contract (IHS–818)	225	1	225	0.16 (10 min)	38
Total			3,275		1,283

* For ease of understanding, burden hours are also provided in actual minutes.

There are no direct costs to respondents other than their time to voluntarily complete the forms and submit them for consideration. The estimated cost for the federal government is $145,223.00 (contractor) to work on the program with IHS program staff.

Requests for Comments: The IHS requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents.

Michael D. Weahkee,

Assistant Surgeon General, RADM, U.S. Public Health Service, Principal Deputy Director, Indian Health Service.

[FR Doc. 2020–06140 Filed 3–23–20; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, April 01, 2020, 01:00 p.m. to April 01, 2020, 04:00 p.m., NIEHS, Keystone, 530 Davis Drive, Durham, NC 27709 which was published in the **Federal Register** on February 10, 2020, 85 FRN 5460.

The April 01, 2020 NIEHS Special Emphasis Panel Meeting is being amended due to a change in the meeting

format. This one day meeting is being changed from an in-person meeting to a teleconference meeting. The meeting is closed to the public.

Dated: March 18, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06133 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Center for Advancing Translational Sciences Advisory Council.

The meeting will be open to the public as indicated below, viewing virtually by WebEx. Individuals can register to view and access the meeting by the link below: *https://nih.webex.com/nih/onstage/g.php?MTID=e7503ab836ad298be8822aa2ae310a180.*

1. Go to ''Event Status'' on the left-hand side of page, then click ''Register''. On the registration form, enter your information and then click ''Submit'' to complete the required registration.

2. You will receive a personalized email with the live event link.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Advisory Council.

Date: May 14, 2020.

Closed: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Open: 11:15 a.m. to 4:30 p.m.

Agenda: Report from the Institute Director and other staff.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anna L. Ramsey-Ewing, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 1072, Bethesda, MD 20892, 301–435–0809, *anna.ramseyewing@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: March 18, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06097 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, March 31, 2020, 08:30 a.m. to April 01, 2020, 06:00 p.m., NIEHS, Keystone, 530 Davis Drive, Durham, NC 27709 which was published in the **Federal Register** on February 10, 2020, 85 FRN 5460.

The March 31, 2020–April 1, 2020 NIEHS Special Emphasis Panel Meeting is being amended due to a change in the meeting format. This two-day meeting is being changed from an in-person meeting to a teleconference meeting. The meeting is closed to the public.

Dated: March 18, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06132 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Center for Complementary and Integrative Health Special Emphasis Panel, April 2, 2020, 8:00 a.m. to April 2, 2020, 3:30 p.m., which was published in the **Federal Register** on February 03, 2020, 85 FR 22, page 5971. The meeting location has changed to National Institutes of Health, 6707 Democracy Boulevard, Bethesda, MD 20892.

The NCCIH Special Emphasis Panel meeting is being amended due to a change in the meeting format. This one-day meeting to be held on April 2, 2020 will be a teleconference. The meeting is closed to the public.

Dated: March 18, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06098 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, March 25, 2020, 08:00 a.m. to March 26, 2020, 03:00 p.m., National Institute of Environmental Health Science, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709 which was published in the **Federal Register** on February 10, 2020, 85 FRN 5460.

The March 25th–26th 2020, NIEHS Special Emphasis Panel Meeting is being amended due to a change in the meeting format. This two-day meeting is being changed from an in-person meeting to a teleconference meeting. The meeting is closed to the public.

Dated: March 18, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06131 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; BRAIN Initiative Marmoset Colonies and Coordination Centers.

Date: April 3, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Nicholas Gaiano, Ph.D., Review Branch Chief, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/Room 6150/MSC 9606, 6001 Executive Boulevard, Bethesda, MD 20892–9606, 301–443–2742, *nick.gaiano@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Review: Consortium on Biomarker and Outcome Measures of Social Impairment for Use in CTs in ASD.

Date: April 13, 2020.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Nicholas Gaiano, Ph.D., Review Branch Chief, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/Room 6150/MSC 9606, 6001 Executive Boulevard, Bethesda, MD 20892–9606, 301–443–2742, *nick.gaiano@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: March 18, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06095 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Center for Complementary and Integrative Health Special Emphasis Panel, April 2, 2020, 5:00 p.m. to April 3, 2020, 12:00 p.m., which was published in the **Federal Register** on February 03, 2020, 85 FR 22, page 5970. The meeting location has changed to National Institutes of Health, 6707 Democracy Boulevard, Bethesda, MD 20892.

The NCCIH Special Emphasis Panel meeting is being amended due to a change in the meeting format. This two-day meeting to be held on April 2 and April 3, 2020 will be a teleconference. The meeting is closed to the public.

Dated: March 18, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06099 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, April 01, 2020, 12:00 p.m. to April 01, 2020, 05:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on March 09, 2020, 85 FR 13665.

The format of the Special Emphasis Panel: Member Conflict: Topics in Endocrinology and Metabolism has been changed to a Telephone Conference Meeting. Meeting date, time and location remain the same. The meeting is closed to the public.

Dated: March 18, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06130 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, April 07, 2020, 08:00 a.m. to April 07, 2020, 05:00 p.m., NIEHS, Keystone, 530 Davis Drive, Durham, NC 27709 which was published in the **Federal Register** on February 10, 2020, 85 FRN 5460.

The April 7, 2020 NIEHS Special Emphasis Panel meeting is being amended due to a change in the meeting format. This one day meeting is being changed from an in-person meeting to a teleconference meeting. The meeting is closed to the public.

Dated: March 18, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06135 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, April 02, 2020, 08:00 a.m. to April 02, 2020, 01:00 p.m., NIEHS, Keystone, 530 Davis Drive, Durham, NC 27709 which was published in the **Federal Register** on February 10, 2020, 85 FRN 5460.

The April 2, 2020 NIEHS Special Emphasis Panel meeting is being amended due to a change in the meeting format. This one day meeting is being changed from an in-person meeting to a teleconference meeting. The meeting is closed to the public.

Dated: March 18, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06134 Filed 3–23–20; 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; PAR: Exosomes and SUDs.

Date: April 3, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Peter B. Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular and Cellular Mechanisms of Neuropathologies.

Date: April 6, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Peter B. Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: March 18, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06096 Filed 3–23–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0022]

Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee management; notice of Federal Advisory Committee meeting.

SUMMARY: The Federal Emergency Management Agency (FEMA) Technical Mapping Advisory Council (TMAC) will hold a virtual meeting on Tuesday, April 14, 2020, and Wednesday, April 15, 2020. The meeting will be open to the public via an Adobe Connect link and conference line.

DATES: The TMAC will meet on Tuesday, April 14, 2020, and Wednesday, April 15, 2020, from 8:00 a.m. to 5:30 p.m. Eastern Time (ET). Please note that the meeting will close early if the TMAC has completed its business.

ADDRESSES: The meeting will be held virtually using an Adobe Connect link (*https://fema.connectsolutions.com/tmacmeeting*) to share meeting visuals and a conference line number (1–800–320–4330 Pin: 875873#) to connect to the audio of the meeting. Members of the public who wish to attend the virtual meeting must register in advance by sending an email to *FEMA–TMAC@fema.dhs.gov* (Attention: Michael Nakagaki) by 5:00 p.m. ET on Monday, April 13, 2020. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed below as soon as possible.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the TMAC, as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated meeting materials will be available at *www.fema.gov/TMAC* for review by Friday, April 10, 2020. Written comments to be considered by the committee at the time of the meeting must be submitted and received by Monday, April 13, 2020, identified by Docket ID FEMA–2014–0022, and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* Address the email TO: *FEMA–TMAC@fema.dhs.gov.* Include the docket number in the subject line of the message. Include name and contact information in the body of the email.
- *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW, Room 8NE, Washington, DC 20472–3100.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For docket access to read background documents or comments received by the TMAC, go to *http://www.regulations.gov* and search for the Docket ID FEMA–2014–0022.

A public comment period will be held on Tuesday April 14, 2020, from 12:00 p.m. to 12:30 p.m. ET and Wednesday April 15, 2020, from 12:00 p.m. to 12:30 p.m. ET. Speakers are requested to limit their comments to no more than three minutes. The public comment period will not exceed 30 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the individual listed below to register as a speaker by close of business on Monday, April 13, 2020.

FOR FURTHER INFORMATION CONTACT: Michael Nakagaki, Designated Federal Officer for the TMAC, FEMA, 400 C Street SW, Washington, DC 20024, telephone (202) 212–2148, and email *michael.nakagaki@fema.dhs.gov.* The TMAC website is: *http://www.fema.gov/TMAC.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App.

In accordance with the Biggert-Waters Flood Insurance Reform Act of 2012, the TMAC makes recommendations to the FEMA Administrator on: (1) How to improve, in a cost-effective manner, the (a) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and (b) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States; (2) mapping standards and guidelines for (a) flood insurance rate maps, and (b) data accuracy, data quality, data currency, and data eligibility; (3) how to maintain, on an

ongoing basis, flood insurance rate maps and flood risk identification; (4) procedures for delegating mapping activities to State and local mapping partners; and (5) (a) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination, and (b) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies. Furthermore, the TMAC is required to submit an annual report to the FEMA Administrator that contains: (1) A description of the activities of the Council; (2) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update Flood Insurance Rate Maps; and (3) a summary of recommendations made by the Council to the FEMA Administrator.

Agenda: The purpose of this meeting is for the TMAC members to provide briefings on the work of the TMAC subcommittees, discuss the layout of the 2020 TMAC Annual Report, and review the schedule for the rest of 2020. Any related materials will be posted to the FEMA TMAC site prior to the meeting to provide the public an opportunity to review the materials. The full agenda and related meeting materials will be posted for review by Friday, April 10, 2020 at *http://www.fema.gov/TMAC.*

Michael M. Grimm,

Assistant Administrator for Risk Management, Federal Emergency Management Agency.

[FR Doc. 2020–06158 Filed 3–23–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7025–N–03]

60-Day Notice of Proposed Information Collection: HOME Investment Partnerships Program

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice of proposed information collection.

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 60 days of public comment.

DATES: *Comments Due Date:* May 26, 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Peter Huber, Office of Affordable Housing Programs, U.S. Department of Housing and Urban Development, 451 Seventh Street SW, Room 7162, Washington, DC 20410–4500; telephone 202–402–3941 (this is not a toll-free number) or by email at *peter.h.huber@hud.gov.* This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: HOME Investment Partnerships Program.

OMB Approval Number: 2506–0171.

Type of Request: Extension of Approved Collection.

Form Number: HUD 40093, SF 1199A, HUD 20755, HUD 40107, HUD 40107A.

Description of the need for the information and proposed use: The information collected through HUD's Integrated Disbursement and Information System (IDIS) (24 CFR 92.502) is used by HUD Field Offices, HUD Headquarters, and HOME Program Participating Jurisdictions (PJs). The information on program funds committed and disbursed is used by HUD to track PJ performance and to determine compliance with the statutory 24-month commitment deadline and the regulatory 5-year expenditure deadline (§ 92.500(d)). The project-specific property, tenant, owner, and financial data is used to compile annual reports to Congress required at Section 284(b) of the HOME Investment Partnerships Act, as well as to make program management decisions about how well program participants are achieving the statutory objectives of the HOME Program. Program management reports are generated by IDIS to provide data on the status of program participants' commitment and disbursement of HOME funds. These reports are provided to HUD staff as well as to HOME PJs.

Management reports required in conjunction with the Annual Performance Report (§ 92.509) are used by HUD Field Offices to assess the effectiveness of locally designed programs in meeting specific statutory requirements and by Headquarters in preparing the Annual Report to Congress. Specifically, these reports permit HUD to determine compliance with the requirement that PJs provide a 25 percent match for HOME funds expended during the Federal fiscal year (Section 220 of the Act) and that program income be used for HOME eligible activities (Section 219 of the Act), as well as the Women and Minority Business Enterprise requirements (§ 92.351(b)).

Financial, project, tenant and owner documentation is used to determine compliance with HOME Program cost limits (Section 212(e) of the Act), eligible activities (§ 92.205), and eligible costs (§ 92.206), as well as to determine whether program participants are achieving the income targeting and affordability requirements of the Act (Sections 214 and 215). Other information collected under Subpart H (Other Federal Requirements) is primarily intended for local program management and is only viewed by HUD during routine monitoring visits. The written agreement with the owner for long-term obligation (§ 92.504) and tenant protections (§ 92.253) are required to ensure that the property owner complies with these important elements of the HOME Program and are also reviewed by HUD during monitoring visits. HUD reviews all other data collection requirements during monitoring to assure compliance with the requirements of the Act and other related laws and authorities.

HUD tracks PJ performance and compliance with the requirements of 24 CFR parts 91 and 92. PJs use the required information in the execution of their program, and to gauge their own performance in relation to stated goals.

Respondents (*i.e., affected public*): State and local government participating jurisdictions.

Reg. section	Paperwork requirement	Number of responses	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
§ 92.61	Program Description and Housing Strategy for Insular Areas.	4	1	4	10	40	$41.37	$1,654.80
§ 92.66	Reallocation—Insular Areas	4	1	4	3	12	41.37	496.44
§ 92.101	Consortia Designation	36	1	36	5	180	41.37	7,446.60
§ 92.201	State Designation of Local Recipients.	51	1	51	1.5	76.5	41.37	3,164.81
§ 92.200	Private-Public Partnership	594	1	594	2	1,188	41.37	49,147.56
§ 92.201	Distribution of Assistance ..	594	1	594	2	1,188	41.37	49,147.56
§ 92.202	Site and Neighborhood Standards.	594	1	594	2	1,188	41.37	49,147.56
§ 92.203	Income Determination	6,667	1	6,667	2	13,334	41.37	551,627.58
§ 92.203	Income Determination	85,000	1	85,000	0.75	63,750	41.37	2,637,337.50
§ 92.205(e)	Terminated Projects	180	1	180	5	900	41.37	37,233.00
§ 92.206	Eligible Costs—Refinancing	100	1	100	4	400	41.37	16,548.00
§ 92.210	Troubled HOME-Assisted Rental Projects.	25	1	25	0.5	12.5	41.37	517.13
§ 92.251(a)	Rehabilitation Projects—New Construction.	3,400	3	10,200	3	30,600	41.37	1,265,922.00
§ 92.251(b)	Rehabilitation Projects—Rehabilitation.	5,100	2	10,200	2	20,400	41.37	843,948.00
§ 92.252	Qualification as affordable housing: Rental Housing:.	50	5	250	25	6,250	41.37	258,562.50
§ 92.252(j)	Fixed and Floating HOME Rental Units.	45	1	45	1	45	41.37	1,861.65
§ 92.251	Written Property Standards	6,667	3	20,001	3	60,003	41.37	2,482,324.11
§ 92.253	Tenant Protections (including lease requirement).	6,667	1	6,667	5	33,335	41.37	1,379,068.95
§ 92.254	Homeownership—Median Purchase Price.	80	1	80	5	400	41.37	16,548.00
§ 92.254	Homeownership—Alternative to Resale/recapture.	100	1	100	5	500	41.37	20,685.00
§ 92.254(a)(5)	Homeownership—Approval of Resale & Recapture.	2,000	1	2,000	1.5	3,000	41.37	124,110.00
§ 92.254(a)(5)	Homeownership—Fair Return & Affordability.	2	1	2	1	2	41.37	82.74
§ 92.254(f)	Homeownership program policies.	600	1	600	5	3,000	41.37	124,110.00
§ 92.300	CHDO Identification	594	1	594	2	1188	41.37	49,147.56
§ 92.300	CHDO Project Assistance ..	594	1	594	2	1,188	41.37	49,147.56
§ 92.303	Tenant Participation Plan ...	4,171	1	4,171	10	41,710	41.37	1,725,542.70
§ 92.351	Affirmative Marketing	1,290	1	1,290	5	6,450	41.37	266,836.50
§ 92.354	Labor	6,667	1	6,667	2.5	16,667.5	41.37	689,534.48
§ 92.357	Debarment and Suspension	6,667	1	6,667	1	6667	41.37	275,813.79
§ 92.501	HOME Investment Partnership Agreement (HUD 40093).	598	1	598	1	598	41.37	24,739.26
§ 92.504	Participating Jurisdiction's Written Agreements.	6,667	1	6,667	10	66,670	41.37	2,758,137.90
§ 92.300	Designation of CHDOs	480	1	480	1.5	720	41.37	29,786.40
§ 92.502	Homeownership and Rental Set-Up and Completion.	594	1	594	16	9,504	41.37	393,180.48
§ 92.502	Tenant-Based Rental Assistance Set-Up (IDIS).	225	1	225	5.5	1,237.5	41.37	51.195.38
§ 92.502	Performance Measurement Set-Up and Completion Screens (IDIS).	6,671	1	6,671	21	140,091	41.37	5,795,564.67
§ 92.502	IDIS Access Request form (HUD 27055).	50	1	50	0.5	25	41.37	1,034.25
§ 92.502(a)	Required Reporting of Program Income.	645	1	645	12	7,740	41.37	320,203.80
§ 92.504(c)	Written Agreement	8,500	1	8,500	1	8,500	41.37	351,645.00
§ 92.504(d)(2)	Financial Oversight and HOME Rental projects.	18,500	1	18,500	1	18,500	41.37	765,345.00
§ 92.508	Recordkeeping—Subsidy Layering and Underwriting.	13,302	1	13,302	4	53,208	41.37	2,201,214.96
§ 92.508	Recordkeeping (Additional)	10,110	1	10,110	1	10,110	41.37	418,250.70
§ 92.509	Annual Performance Reports (HUD 40107).	598	1	598	2.5	1,495	41.37	61,848.15
§ 92.509	Management Reports—FY Match Report (HUD 40107A).	594	1	594	0.75	445.5	41.37	18,430.34
§ 92.550	HUD Monitoring of Program	645	1	645	0.25	161.25	41.37	6,670.91
§ 91.525	Documentation and Activities.							
§ 91.220	Describe the plan for outreach.	427	1	427	1	427	41.37	17,664.99
§ 91.220	Describe plan to ensure suitability.	427	1	427	1	427	41.37	17,664.99

Reg. section	Paperwork requirement	Number of responses	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
	Direct Deposit Sign up form (SF 1199A).	10	1	10	0.25	2.5	41.37	103.43
Totals	.....	207,586	.....	.....	.....	633,536	.....	26,209,394.66

Annual cost is based on Actual Burden Hours (633,536) * the hourly rate for a GS–12 ($41.37).

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: March 5, 2020.

John Bravacos,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2020–06184 Filed 3–23–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7025–N–05]

60-Day Notice of Proposed Information Collection: Paperwork Reduction Act Submission—Proposed Information Collection Revision for Housing Opportunities for Persons With AIDS (HOPWA) Program

AGENCY: Office of Community Planning and Development, 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 60 days of public comment.

DATES: *Comments Due Date:* May 26, 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Lisa Steinhauer, Community Planning and Development Specialist, Office of HIV/AIDS Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Lisa Steinhauer at *Lisa.A.Steinhauer@hud.gov* or telephone 215–861–7651. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Lisa Steinhauer.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Housing Opportunities for Persons With AIDS (HOPWA): Grant Application Submission, Recordkeeping, and Reporting.

OMB Approval Number: 2506–0133.

Type of Request: Revision of currently approved collection.

Form Number: HUD–40110–B, HUD–40110–C, HUD–40110–D, SF–424, SF–LLL, and HUD–2991.

Description of the need for the information and proposed use: The current Paperwork Reduction Act approval under OMB Control No. 2506–0133 covers both the HOPWA formula and competitive grant programs. The competitive grant program includes new competitive grants and renewal grants. This revision would only apply to reporting requirements for new competitive Special Projects of National Significance (SPNS) grants.

The current approval covers reporting for new competitive SPNS grants through HUD–40110–C, the HOPWA Annual Performance Report (APR). This submission requests to add four data elements to be reported annually through the HIV Housing Care Continuum Model Report to be submitted annually and the Housing as an Intervention to Fight AIDS (HIFA) report to be submitted at the end of the grant period of performance. The additional reporting will allow HOPWA to share lessons learned and promising practices with the public, and uphold the purpose of SPNS grants to be replicable in other similar localities or nationally.

The data elements in the HIV Housing Care Continuum Model Report follow Center for Disease Control (CDC) definitions for the HIV Care Continuum and will allow SPNS grantees to collect standardized project data that can be used to compare outcomes with other projects. The HIV Housing Care Continuum Model report will require grantees to collect four client-level data elements for each person with diagnosed HIV receiving HOPWA assistance by type of assistance received through this NOFA. The data elements include:

1. *Receipt of Care.* Receipt of care is measured as a person with diagnosed HIV receiving HOPWA assistance under this NOFA who had at least one CD4 or viral load test during the operating year.

2. *Retained in Care.* Retained in care is measured as a person with diagnosed HIV receiving HOPWA assistance under this NOFA who had two or more CD4 or viral load tests, performed at least three months apart during the operating year.

3. *Viral Suppression.* Viral suppression is measured as a person with diagnosed HIV receiving HOPWA assistance under this NOFA who had a viral load test result of <200 copies/mL at the most recent viral load test during the operating year.

4. *Type of HOPWA assistance received.* The type of HOPWA assistance received by the person with diagnosed HIV includes any HOPWA assistance for housing or supportive services funded through this NOFA. This data element will provide the denominator for the variety of HIV Housing Care Continuums created through the HIV Housing Care Continuum Model Report. Grantees will be required to separately report receipt of care, retained in care, and viral suppression for persons with diagnosed HIV receiving the following categories of type of HOPWA assistance under this NOFA: Any eligible HOPWA assistance; Housing assistance only; Supportive Services only; Both Housing assistance and Supportive Services; Tenant-based Rental Assistance (TBRA) and Master Leasing only; TBRA, Master Leasing, and Supportive Services; Facility-based Housing only; Facility-based Housing and Supportive Services; Short-term Rent, Mortgage, and Utilities (STRMU) only; STRMU and Supportive Services; Other Housing Activities only; and Other Housing Activities and Supportive Services.

Each annual submission of the HIV Housing Care Continuum Model report will cover only the data from the program year covered. The client-level data elements should be collected at minimum annually and at the following times: Client Intake, HOPWA Assistance Ends, Type of HOPWA Assistance Changes, or Recertification for HOPWA Assistance. In addition to the data elements collected, the grantee will provide a brief narrative to interpret the data reported.

The HIFA Model report will document the project's design, implementation, and outcomes, and identify best practices and model qualities related to the use of housing as a structural intervention in the ending the HIV/AIDS epidemic. The HIFA Model report includes the following components: A vision or goal for the project; description of the need being met by the project; description of the program design; description of the alignment with initiatives or strategies to end the HIV/AIDS epidemic; description of data collection and analysis used to make data-driven decisions on stable housing and positive health outcomes; description of culturally competent approaches used to clients experiencing service gaps; partnerships formed or continued with community organizations and other housing and service providers; resources and partnerships used to transition clients to self-sufficiency or other forms of housing assistance by the end of the grant period; successes and challenges in using housing as a structural intervention to end the HIV/AIDS epidemic; client outcomes related to health and housing stability including a summary of HIV Housing Care Continuum results and, if applicable, employment and income growth. Health outcome measures will include eligible program beneficiary CD4 count, viral load, and perceived health. This data will be provided in the aggregate. Each HIFA Model will be shared with the public, and lessons learned through these grantee efforts will help inform national and community policy and actions.

Reporting and recordkeeping for both HOPWA formula and competitive grant programs are already included in this approval. As currently approved through this collection, all HOPWA grantees will continue to provide annual information on program accomplishments that supports program evaluation and the ability to measure program beneficiary outcomes related to: Maintaining housing stability; preventing homelessness; and improving access to care and support. Competitive grantees report through HUD–40110–C, the HOPWA APR; Formula grantees report through HUD–40110–D, the HOPWA Consolidated Annual Performance and Evaluation Report (CAPER). Grantees are required to report on the activities undertaken only, thus there may be components of these reporting requirements that may not be applicable. HUD systematically reviews and conducts data analysis in order to prepare national and individual grantee performance profiles that are not only used to measure program performance against benchmark goals and objectives, but also to communicate the program's achievement and contributions towards Departmental strategic goals.

The currently approved collection also pertains to grant application submission requirements which will be used to rate applications, determine eligibility, and establish grant amounts. HOPWA will continue using application narratives and form HUD–40110–B, HOPWA Competitive Application & Renewal of Permanent Supportive Housing Project Budget Summary, as a component of determining applicant eligibility and establishing grant amounts for competitive grants. HOPWA competitive and renewal application submission also continue to require submission of the following forms currently approved under this collection: SF424 and SF424b assurances; SFLLL; and HUD–2991. Form HUD–2991 is currently covered under OMB approval number 2506–0112.

Respondents (*i.e. affected public*): HOPWA competitive and renewal grant applicants, and all HOPWA formula, competitive, and renewal grantees.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HOPWA Renewal Application (including HUD–40110–B, narratives, and other requirements listed in the renewal notice) ...	28	1	28	15	420	$25.44	$10,684.80
HOPWA Competitive Application (including HUD–40110–B, narratives, and other requirements listed in the NOFA)	40	1	40	45	1,800	25.44	45,792.00
HUD–40110–C Annual Progress Report (APR)	116	1	116	55	6,380	25.44	162,307.20

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD–40110–D Consolidated Annual Performance and Evaluation Report (CAPER)	128	1	128	41	5,248	25.44	133,509.12
HIV Housing Care Continuum Model Report (new competitive SPNS grant only)	26	1	26	20	520	25.44	13,228.80
Housing as an Intervention to Fight AIDS (HIFA) Model Report (new competitive SPNS grant only)	26	1	26	40	1,040	25.44	26,457.60
Recordkeeping for Competitive, Renewal, and Formula Grantees	244	1	244	60	14,640	25.44	372,441.60
Grant Amendments (budget change, extension, or early termination)	30	1	30	6	180	25.44	4,579.20
Total	638		638		30,228		769,000.32

Renewal grants are awarded for a three-year operating period. Currently, there are 82 eligible renewal grantees. The number of respondents listed for HOPWA renewal applications represents one-third of the renewal grantees, or the estimated number of grantees projected to renew HOPWA grants each year. The number of respondents listed for HOPWA competitive applications represents the number of respondents expected to submit an application. Form HUD–40110–C, the APR is submitted by all renewal and competitive grantees on an annual basis. The number of respondents for the APR include 82 renewal grantees, eight (8) current HOPWA competitive grantees, and 26 expected new competitive SPNS grantees.

HOPWA grantees and applicants may be required to respond to more than one piece of information collection. The total number of respondents include: 82 renewal grantees, eight (8) current HOPWA competitive grantees, 26 expected new competitive SPNS grantees, 40 potential competitive applicants, and 128 current HOPWA formula grantees. The total of 638 total annual responses captures each unique response from the 284 respondents. All annualized costs reflect staff time spent on tasks in the table. The hourly rate is based on a GS–9 for Rest of United States. 30,228 hours * $25.44 = $769,000.32.

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: March 12, 2020.

John Bravacos,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2020–06179 Filed 3–23–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–16]

30-Day Notice of Proposed Information Collection: Recordkeeping for HUD's Continuum of Care (CoC) Program OMB Control No.: 2506–0199

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:* April 23, 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 January 6, 2020 at 85 FR 519.

A. Overview of Information Collection

Title of Information Collection: Recordkeeping for HUD's Continuum of Care (CoC) Program.

OMB Approval Number: 2506–0199.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: This submission is to request an extension of an Existing Collection in use without an OMB Control Number for the Recordkeeping for HUD's Continuum of Care Program. Continuum of Care program recipients will be expected to implement and retain the information collection for the recordkeeping requirements. The statutory provisions and implementing interim regulations govern the Continuum of Care Program recordkeeping requirements for recipient and subrecipients and the standard operating procedures for ensuring that Continuum of Care Program funds are used in accordance with the program requirements. To see the regulations for the new CoC program and applicable supplementary documents, visit HUD's Homeless Resource Exchange at *https://www.onecpd.info/resource/2033/hearth-coc-program-interim-rule/.*

Information collection	Number of respondents	Response frequency (average)	Total annual responses	Burden hours per response	Total annual hours	Hourly rate	Burden cost per instrument
A	B	C	D	E	F		
§ 578.5(a) Establishing the CoC	450.00	1.00	450.00	8.00	3,600.00	$39.96	$143,856.00
§ 578.5(b) Establishing the Board	450.00	1.00	450.00	5.00	2,250.00	39.96	89,910.00
§ 578.7(a)(1) Hold CoC Meetings	450.00	2.00	900.00	4.00	3,600.00	39.96	143,856.00
§ 578.7(a)(2) Invitation for New Members	450.00	1.00	450.00	1.00	450.00	39.96	17,982.00
§ 578.7(a)(4) Appoint committees	450.00	2.00	900.00	0.50	450.00	39.96	17,982.00
§ 578.7(a)(5) Governance charter	450.00	1.00	450.00	7.00	3,150.00	39.96	125,874.00
§ 578.7(a)(6) and (7) Monitor performance and evaluation	450.00	1.00	450.00	9.00	4,050.00	39.96	161,838.00
§ 578.7(a)(8) Centralized or coordinated assessment system	450.00	1.00	450.00	8.00	3,600.00	39.96	143,856.00
§ 578.7(a)(9) Written standards	450.00	1.00	450.00	5.00	2,250.00	39.96	89,910.00
§ 578.7(b) Designate HMIS	450.00	1.00	450.00	10.00	4,500.00	39.96	179,820.00
§ 578.9 Application for funds	450.00	1.00	450.00	180.00	81,000.00	39.96	3,236,760.00
§ 578.11(c) Develop CoC plan	450.00	1.00	450.00	9.00	4,050.00	39.96	161,838.00
§ 578.21(c) Satisfying conditions	8,000.00	1.00	8,000.00	4.00	32,000.00	39.96	1,278,720.00
§ 578.23 Executing grant agreements	8,000.00	1.00	8,000.00	1.00	8,000.00	39.96	319,680.00
§ 578.35(b) Appeal—solo	10.00	1.00	10.00	4.00	40.00	39.96	1,598.40
§ 578.35(c) Appeal—denied or decreased funding	15.00	1.00	15.00	1.00	15.00	39.96	599.40
§ 578.35(d) Appeal—competing CoC	10.00	1.00	10.00	5.00	50.00	39.96	1,998.00
§ 578.35(e) Appeal—Consolidated Plan certification	5.00	1.00	5.00	2.00	10.00	39.96	399.60
§ 578.49(a)—Leasing exceptions	5.00	1.00	5.00	1.50	7.50	39.96	299.70
§ 578.65 HPC Standards	20.00	1.00	20.00	10.00	200.00	39.96	7,992.00
§ 578.75(a)(1) State and local requirements—appropriate service provision	7,000.00	1.00	7,000.00	0.50	3,500.00	39.96	139,860.00

Information collection	Number of respondents	Response frequency (average)	Total annual responses	Burden hours per response	Total annual hours	Hourly rate	Burden cost per instrument
A	B	C	D	E	F		
§ 578.75(a)(1) State and local requirements—housing codes	20.00	1.00	20.00	3.00	60.00	39.96	2,397.60
§ 578.75(b) Housing quality standards	72,800.00	2.00	145,600.00	1.00	145,600.00	39.96	5,818,176.00
§ 578.75(b) Suitable dwelling size	72,800.00	2.00	145,600.00	0.08	11,648.00	39.96	465,454.08
§ 578.75(c) Meals	70,720.00	1.00	70,720.00	0.50	35,360.00	39.96	1,412,985.60
§ 578.75(e) Ongoing assessment of supportive services	8,000.00	1.00	8,000.00	1.50	12,000.00	39.96	479,520.00
§ 578.75(f) Residential supervision	6,600.00	3.00	19,800.00	0.75	14,850.00	39.96	593,406.00
§ 578.75(g) Participation of homeless individuals	11,500.00	1.00	11,500.00	1.00	11,500.00	39.96	459,540.00
§ 578.75(h) Supportive service agreements	3,000.00	100.00	300,000.00	0.50	150,000.00	39.96	5,994,000.00
§ 578.77(a) Signed leases/occupancy agreements	104,000.00	2.00	208,000.00	1.00	208,000.00	39.96	8,311,680.00
§ 578.77(b) Calculating occupancy charges	1,840.00	200.00	368,000.00	0.75	276,000.00	39.96	11,028,960.00
§ 578.77(c) Calculating rent	2,000.00	200.00	400,000.00	0.75	300,000.00	39.96	11,988,000.00
§ 578.81(a) Use restriction	20.00	1.00	20.00	0.50	10.00	39.96	399.60
§ 578.91(a) Termination of assistance	400.00	1.00	400.00	4.00	1,600.00	39.96	63,936.00
§ 578.91(b) Due process for termination of assistance	4,500.00	1.00	4,500.00	3.00	13,500.00	39.96	539,460.00
§ 578.95(d)—Conflict-of-Interest exceptions	10.00	1.00	10.00	3.00	30.00	39.96	1,198.80
§ 578.103(a)(3) Documenting homelessness	300,000.00	1.00	300,000.00	0.25	75,000.00	39.96	2,997,000.00
§ 578.103(a)(4) Documenting at risk of homelessness	10,000.00	1.00	10,000.00	0.25	2,500.00	39.96	99,900.00
§ 578.103(a)(5) Documenting imminent threat of harm	200.00	1.00	200.00	0.50	100.00	39.96	3,996.00
§ 578.103(a)(7) Documenting program participant records	350,000.00	6.00	2,100,000.00	0.25	525,000.00	39.96	20,979,000.00
§ 578.103(a)(7) Documenting case management	8,000.00	12.00	96,000.00	1.00	96,000.00	39.96	3,836,160.00
§ 578.103(a)(13) Documenting faith-based activities	8,000.00	1.00	8,000.00	1.00	8,000.00	39.96	319,680.00
§ 578.103(b) Confidentiality procedures	11,500.00	1.00	11,500.00	1.00	11,500.00	39.96	459,540.00
§ 578.105(a) Grant/project changes—UFAs	20.00	2.00	40.00	2.00	80.00	39.96	3,196.80
§ 578.105(b) Grant/project changes—multiple project applicants	800.00	1.00	800.00	2.00	1,600.00	39.96	63,936.00
Total	1,075,195.00		4,238,075.00		2,056,710.50		82,186,151.58

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: March 12, 2020.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2020–06178 Filed 3–23–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7033–N–01]

60-Day Notice of Proposed Information Collection: Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally-Owned Residential Properties and Housing Receiving Federal Assistance

AGENCY: HUD Office of Lead Hazard Control and Healthy Homes, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for renewal of 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 60 days of public comment.

DATES: *Comments Due Date:* May 26, 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: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5535 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, 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. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for renewal of the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally-Owned Residential Properties and Housing Receiving Federal Assistance.

OMB Approval Number: 2539–0009.

Type of Request: Revision with some changes due to program changes.

Form Number:

Description of the need for the information and proposed use: Provision of a pamphlet on lead poisoning prevention to tenants and purchasers; provision of a notice to occupants on the results of lead hazard evaluation or reduction activities; special reporting requirements for a child with an environmental intervention blood lead level; and recordkeeping and periodic summary reporting requirements.

Respondents: Residential property owners; housing agencies; Federal grantees; and tribally designated housing entities and/or participating jurisdictions.

The revised hour burden estimates are presented in the table below. In the table, the $16.10 hourly cost per response reflects the weighted average of cases, first, in which the respondent is simply giving someone a pamphlet, putting something in a file, or retrieving something from a file, and sending summary information from it to the Department, valued at $10.93 per hour; and second, processing notices as above as well as providing information in cases of lead-poisoned children, valued at $17.48 per hour. (These labor rates have been escalated by 3% from 2016 based on the Census Bureau's constant quality housing construction price index, since the work is in the housing trades.)

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	62,295	As needed ...	Various	2.2	136,692	$16.10	$2,200,741

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 comments in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 12, 2020.

Peter Ashley,

Director for Policy and Standards Division, Office of Lead Hazard Control and Healthy Homes.

[FR Doc. 2020–06185 Filed 3–23–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7029–N–03]

60-Day Notice of Proposed Information Collection: The National Family Self-Sufficiency (FSS) Demonstration

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The U.S. Department of Housing and Urban Development (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 60 days of public comment.

DATES: *Comments Due Date:* May 26, 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: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, 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. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: The National Family Self-Sufficiency (FSS) Demonstration.

OMB Approval Number: N/A.

Type of Request (i.e. new, revision or extension of currently approved collection): New collection.

Form Number: N/A.

Description of the need for the information and proposed use: In 2012, HUD commissioned the national Family Self-Sufficiency (FSS) Study. MDRC was selected to lead this evaluation. As part of the longer-term follow-up, which HUD authorized in 2018—and extends through 2021, MDRC will conduct a long-term follow-up survey with a sample of individuals who enrolled in the study and were randomly assigned to a program group (offered the opportunity to enroll in FSS and receive services) or a control group. The survey will allow us to understand the FSS program's long-term effects on indicators of economic self-sufficiency (employment and income, for example) and well-being (health, financial, material, housing, for example). The survey will also provide an opportunity to understand the program participation experiences of FSS participants in the study who continue to be enrolled in FSS and those who exited for a variety of reasons, including graduation from FSS. No other comprehensive data source exists to provide the type of information that will be collected by this follow-up survey.

Respondents: Participants enrolled in the HUD Family Self-Sufficiency Evaluation.

Estimated Number of Respondents: The survey will be fielded to 1,300 sample members, one half coming from the program group and the other half from the control group. We expect between 60 to 70 percent of the respondents will complete the survey.

Estimated Time per Response: 15-minute survey interview.

Frequency of Response: 1 interview.

Estimated Total Annual Burden Hours: 325 hours.[1]

Estimated Total Annual Cost: $3,276.

Respondent's Obligation: Voluntary.

Legal Authority: The survey is conducted under Title 12, United States Code, Section 1701z and Section 3507 of the Paperwork Reduction Act of 1995, 44, U.S.C., 35, as amended.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Cost
Total	1,300	1	1	0.25	325	[2] $10.08	[3] $3,276

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;

[1] The estimated total annual burden hours estimate if all 1,300 study participants respond to the survey is 325. However, we expect that between 60 to 70 percent of the respondents will complete the survey. In that case, the actual total annual burden hours would be between 195 to 228 hours.

[2] To compute the hourly cost per response, MDRC used the average state minimum wage of the 18 study sites, as of July 1, 2020. In cases where the site's county had a higher minimum wage than the site's state, the county minimum wage was used for the calculations. Across the 18 sites in 7 states (California, Florida, Maryland, Missouri, New Jersey, Ohio, and Texas), the minimum wages ranged from $7.25 to $15 per hour.

[3] To compute the total estimated annual cost, the total estimated annual burden hours were multiplied by the hourly cost per response. The calculation assumes 325 total annual burden hours if all 1,300 study participants respond to the survey. However, we expect that between 60 to 70 percent of the respondents will complete the survey. In that case, the actual total annual burden hours may be between 195 and 228 hours, and the actual total annual cost would be between $1,965.60 and $2,298.24.

(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: March 6, 2020.

Todd M. Richardson,

General Deputy, Assistant Secretary for Policy Development and Research.

[FR Doc. 2020–06162 Filed 3–23–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7025–N–04]

60-Day Notice of Proposed Information Collection: Data Collection and Reporting for HUD's Homeless Assistance Programs—Annual Performance Report and System Performance Report

AGENCY: Office of Community Planning and Development, 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 60 days of public comment.

DATES: *Comments Due Date:* May 26, 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: William Snow, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–4541 (this is not a toll-free number) or email at *William.Snow@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: William Snow, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *William.Snow@hud.gov* or telephone 202–402–4541. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Mr. Snow.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Data Collection and Reporting for HUD's Continuum of Care Program—Annual Performance Report and System Performance Report.

OMB Approval Number: Pending.

Type of Request: New.

Description of the need for the information and proposed use: This request is for clearance of data collection and reporting to enable the U.S. Department of Housing and Urban Development (HUD) Office of Community Planning and Development (CPD) to continue to manage and assess the effectiveness of its homeless assistance projects on an annual basis. Per 24 CFR 578.103(e), HUD requires recipients and subrecipients that receive funding through the CoC Program (authorized by the McKinney-Vento Homeless Assistance Act, as amended by the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act) to prepare and submit annual project-level reports on performance and spending.

This request will also enable the HUD CPD Office to initiate a process to assess the effectiveness of local coordinated systems of homeless assistance. The McKinney-Vento Homeless Assistance Act, as amended, now requires communities to measure their performance as a coordinated system, in addition to analyzing performance by specific projects or project types. Section 427 of the Act established a set of selection criteria for HUD to use in awarding CoC Program funding. These selection criteria require CoCs to report to HUD their system-level performance. The intent of these selection criteria are to encourage CoCs, in coordination with Emergency Solutions Grant (ESG) Program recipients and all other homeless assistance stakeholders in the community, to regularly measure their progress in meeting the needs of people experiencing homelessness in their community and to report this progress to HUD. This request is for HUD to collect system-level performance measure data from CoCs on an annual basis, as described in Appendix B of this document.

The project APR and system-level performance measures both rely on a primary data source in each CoC—a local Homeless Management Information System (HMIS). An HMIS is an electronic data collection system that stores person-level information about homeless persons who access a community's homeless service system. Over the past decade, HUD has supported the development of local HMIS by funding their development and implementation, by providing technical assistance, and by developing national data standards that enable the collection of standardized information on the characteristics, service patterns and service needs of homeless persons within a jurisdiction and across jurisdictions. These standards are described in HUD's HMIS Data Standards.

ANNUAL PERFORMANCE REPORT

Information collection	Number of respondents	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Annual Performance Report (CoC Program)—Non-profit Recipients	4,000	1	4	16,000	$39.89	$638,240.00
Annual Performance Report (YHDP)—Non-profit Recipients	200	5	5	5,000	39.89	199,450.00

ANNUAL PERFORMANCE REPORT—Continued

Information collection	Number of respondents	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Performance Report (Unsheltered Grants)—Non-profit Recipients	25	5	4	500	39.89	19,945.00
Annual Performance Report—State and Local Recipients	4,000	1	4	16,000	39.89	638,240.00
Annual Performance Report (YHDP)—State and Local Recipients	200	5	5	5,000	39.89	199,450.00
Performance Report (Unsheltered Grants)—State and Local Recipients	25	5	4	500	39.89	19,945.00
Total	8,450	10,250		43,000		1,715,270.00

SYSTEM PERFORMANCE MEASURES REPORT

Information collection	Number of respondents	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Group 1: CoCs with Automated Software Report	385	1	13	5,005	$39.89	$199,649.45
Group 2: CoCs with Manual Software Report	15	1	15	225	39.89	8,975.25
Total	400	400		5,230		208,624.70

PERFORMANCE DATA CHECK-UP

Information collection	Number of respondents	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
CoCs	400	4	1	1,600	$35.52	$56,832.00
HMIS Lead Agency	400	1	1	400	35.52	14,208.00
Project Recipients	600	1	1	300	35.52	10,656.00
Total	1,400	6		2,300		81,696.00

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.

Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 5, 2020.

John Bravacos,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2020–06181 Filed 3–23–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0017]

Agency Information Collection Activities; Financial Assistance and Social Services

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, Bureau of Indian Affairs (BIA) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 26, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to the Ms. Evangeline Campbell, Chief, Division of Human Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, MS–4513–MIB, Washington, DC 20240; facsimile: (202) 208–5113; email: *Evangline.Campbell@bia.gov*. Please reference OMB Control Number 1076–0017 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Evangeline M. Campbell by telephone at (202) 513–7621.

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.

We are 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 BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA 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. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you 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 BIA is seeking to renew the information collection it conducts to provide assistance under 25 CFR 20 to eligible Indians when comparable financial assistance or social services either are not available or not provided by State, Tribal, county, local, or other Federal agencies. The information collection allows BIA to determine whether an individual is eligible for assistance and services. No third party notification or public disclosure burden is associated with this collection.

Title of Collection: Financial Assistance and Social Services Program.

OMB Control Number: 1076–0017.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individual Indians seeking financial assistance or social services from BIA.

Total Estimated Number of Annual Respondents: 240,000 provide information on the application; of those, 95,000 contribute information to an employability assessment and ISP.

Total Estimated Number of Annual Responses: 335,000.

Estimated Completion Time per Response: One half hour for the application and 1 hour for the employability assessment and ISP.

Total Estimated Number of Annual Burden Hours: 215,000 hours.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: Once per respondent.

Total Estimated Annual Nonhour Burden Cost: $0.

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*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2020–06150 Filed 3–23–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L14400000.PN0000/LLWO350000/20X; OMB Control Number 1004–0009]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Land Use Application and Permit

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before April 23, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the BLM at U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW, Room 2134LM, Washington, DC 20240, Attention: Chandra Little; or by email to *cclittle@blm.gov.* Please reference OMB Control Number 1004–0009 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Jessica LeRoy at 541–471–6659. Persons who use a telecommunication device for the deaf may call the Federal Relay Service at 1–800–877–8339, to leave a message for Ms. LeRoy.

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 was published on January 23, 2020, (85 FR 3943) and the comment period ended March 23, 2020. The BLM received no comments.

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 BLM; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BLM enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BLM 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.

The following information pertains to this request:

Abstract: This control number enables the BLM to obtain the information that is necessary in order to authorize the issuance of leases, permits, and easements for a variety of uses of public lands.

Title of Collection: Land Use Application and Permit.

OMB Control Number: 1004–0009.

Form: Form 2920–1.

Type of Review: Extension of a currently approved collection.

Description of Respondents: Individuals, state and local governments, and businesses that wish to use public lands.

Total Estimated Number of Annual Responses: 407.

Estimated Completion Time per Response: Varies from 1 to 120 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 2,455.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $145,760.

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.*).

Chandra Little,

Acting Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2020–06137 Filed 3–23–20; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1194]

Certain High-Density Fiber Optic Equipment and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 21, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Corning Optical Communications LLC of Charlotte, North Carolina. Supplements to the complaint were filed on March 2, 2020, March 11, 2020, and March 13, 2020. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain high-density fiber optic equipment and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,020,320 (''the '320 patent''); U.S. Patent No. 8,712,206 (''the '206 patent''); U.S. Patent No. 10,120,153 (''the '153 patent''); U.S. Patent No. 10,094,996 (''the '996 patent''); and U.S. Patent No. 10,444,456 (''the '456 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 18, 2020, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–3 of the '320 patent; claims 1, 2, 10, 11, 14, 22, and 23 of the '206 patent; claims 1, 2, 5–16, 19, and 23–27 of the '153 patent; claims 22–29 of the '996 patent; and claims 11, 12, 14–21, and 27–30 of the '456 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''high-density fiber optic equipment and components thereof, which consist of (1) a chassis with sliding trays that fits within the standardized racks used in data centers, and (2) removable modules that are inserted into the sliding trays of the chassis, wherein the chassis and modules are used to terminate large numbers of fiber-optic cables using standardized connectors (at least 98 connections per standard rack unit (or 'U space'))'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Corning Optical Communications LLC, 4200 Corning Place, Charlotte, NC 28216.

(b) The respondents are the following entities alleged to be in violation of section 337, and is/are the parties upon which the complaint is to be served:

AFL Telecommunications Holdings LLC d/b/a AFL, 170 Ridgeview Center Drive, Duncan, SC 29334.

FS.com Inc., 380 Centerpoint Boulevard, New Castle, DE 19720.

Huber+Suhner AG, Degersheimerstrasse 14, 9100 Herisau, Switzerland.

Huber + Suhner, Inc., 8530 Steele Creek Place Drive, Suite H, Charlotte, NC 28273.

Legrand North America, LLC, 60 Woodlawn Street, West Hartford, CT 06110.

Leviton Manufacturing Co., Inc., 201 North Service Road, Melville, NY 11747.

Panduit Corporation, 18900 Panduit Drive, Tinley, IL 60487.

Shanghai TARLUZ Telecom Tech. Co., Ltd. d/b/a TARLUZ, 3F, Building 1, No. 2528 Zhennan Road, Putuo District, Shanghai, China 200331.

Shenzhen Anfkom Telecom Co., Ltd. d/b/a Anfkom Telecom, Block B, Hengbang Science Park, Loucun 1st Industrial Zone, Guangming New District, Shenzhen, China 518107.

The LAN Wirewerks Research, Laboratories Inc. d/b/a Wirewerks, 19144 Avenue Cruickshank, Baie-d'Urfé, Québec, H9X 3P1, Canada.

The Siemon Company, Siemon Business Park, 101 Siemon Company Drive, Watertown, CT 06795.

Total Cable Solutions, Inc., 475 Victory Drive, Springboro, OH 45066.

Wulei Technology Co., Ltd. d/b/a Bonelinks, A409 Tangxi Jinggongfang, Hongwan Commercial Center, Gushu, Xixiang, Baoan District, Shenzhen, China 518126.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 19, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–06152 Filed 3–23–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–607]

Bulk Manufacturer of Controlled Substances Application: Pisgah Laboratories, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 26, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on February 3, 2020, Pisgah Laboratories, Inc., 3222 Old Hendersonville Highway, Pisgah Forest, North Carolina 28768 applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Difenoxin	9168	I
Diphenoxylate	9170	II
Levorphanol	9220	II
Meperidine intermediate-B.	9233	II

The company plans to manufacture the above-listed controlled substances in bulk for distribution to its customers.

Dated: March 12, 2020.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–06168 Filed 3–23–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–605]

Importer of Controlled Substances Application: Sharp (Bethlehem), LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before April 23, 2020. Such persons may also file a written request for a hearing on the application on or before April 23, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on January 28, 2020, Sharp (Bethlehem), LLC, 2400 Baglyos Circle, Bethlehem, Pennsylvania 18020–8024 applied to be registered as an importer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
3,4-Methylenedioxy methamphetamine.	7405	I
Psilocybin	7437	I

The company plans to import the listed controlled substances for clinical trials. Approval of permit applications will occur only when the registrant's activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

Dated: March 12, 2020.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–06167 Filed 3–23–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–608]

Bulk Manufacturer of Controlled Substances Application: Cargill, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the

issuance of the proposed registration on or before May 26, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on December 24, 2019, Cargill, Inc., 17540 Monroe Wapello Road, Eddyville, Iowa 52553 applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I

The company plans to manufacture the above-listed controlled substance as a byproduct. After analytical testing the substance will be destroyed. No other activities for this drug code is authorized for this registration.

Dated: March 12, 2020.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–06165 Filed 3–23–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–604]

Bulk Manufacturer of Controlled Substances Application: Johnson Matthey Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 26, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on February 7, 2020, Johnson Matthey Inc., 2003 Nolte Drive, West Deptford, New Jersey 08066–1742 applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance:

Controlled substance	Drug code	Schedule
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II

The company plans to manufacture the above-listed controlled substance internally as intermediates or for sale to their customers. No other activities for this drug code is authorized for this registration.

Dated: March 12, 2020.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–06175 Filed 3–23–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *February 1, 2020 through February 29, 2020.* (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) The sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii)(I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i)(I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding

eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e))must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1)of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C)of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,943	Stimson Lumber Company, Aerotek	Gaston, OR	December 29, 2018
95,226	Electric Research and Manufacturing Cooperative, Inc. (ERMCO), Arkansas Electric Cooperatives, Inc. (AECI), Hughes Staffing, Inc.	Little Rock, AR	September 26, 2018
95,277	SSB Manufacturing Company, Fredericksburg Plant, Simmons Bedding Company, Serta Simmons Bedding, etc.	Fredericksburg, VA	October 10, 2018
95,316A	Integra Lifesciences, Dental Instruments, York Division, Willis International Limited, etc.	York, PA	October 22, 2018
95,474	Motionwear, LLC	Indianapolis, IN	December 12, 2018
95,556	Spirit AeroSystems Inc., Acro Service Corporation, Aerotek, Aircraft Technology Group, etc.	Wichita, KS	January 10, 2019

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
95,043	McAfee LLC, Enterprise Products	Hillsboro, OR	August 5, 2018.
95,043A	McAfee LLC, Customer Success Group	Hillsboro, OR	August 5, 2018.
95,066	Hotelbeds USA, Inc., Global Financial Services department, Kelly Services.	Orlando, FL	August 12, 2018.
95,066A	Hotelbeds, Tourico Holidays Flights, Global Financial Services department, Robert Half.	Altamonte Springs, FL	August 12, 2018.
95,145	Deutsche Bank USA Core Corporation, Trade Finance and Lending Operations Division, Deutsche Bank AG.	New York, NY	September 4, 2018.
95,190	Eagle Mine LLC, Exploration Department, Lundin Mining	Negaunee, MI	September 17, 2018.
95,204	Concentrix CVG Customer Management Group Inc	Longview, TX	September 23, 2018.
95,253	Rohr, Inc., Collins Aerospace, United Technologies, Adecco, etc	Chula Vista, CA	October 3, 2018.

TA–W No.	Subject firm	Location	Impact date
95,316	Integra Lifesciences, Surgical Lighting Products, York Division, Willis International, etc.	York, PA	October 22, 2018.
95,330	SpringAhead, Inc., Tallie	Walnut Creek, CA	October 27, 2018.
95,348	Sitel Operating Corporation, Sitel LLC, Sitel Worldwide Corporation	Glasgow, KY	November 2, 2018.
95,360	LEONI Wiring Systems, Inc., Accountemps, Robert Half, Finkenthal, UTG.	Tucson, AZ	November 6, 2018.
95,363	99 Cents Only Store, Number Holdings Inc., Corporate Support Center	Commerce, CA	November 6, 2018.
95,365	Jacobs Engineering Group, Inc., Accounting Services, CH2M Hill, CH2M Hill Engineers, etc.	Englewood, CO	November 7, 2018.
95,369	SAP America, SAP Sybase, Inc	San Ramon, CA	November 8, 2018.
95,393	Syniverse Technologies, LLC., Syniverse Holdings, Inc	Tampa, FL	November 19, 2018.
95,410	TE Connectivity, Medical, Terra Staffing Group, Express Employment Professionals, etc.	Wilsonville, OR	November 21, 2018.
95,452	CFS Brands LLC	Sparta, WI	December 5, 2018.
95,453	Circa of America, LLC	San Francisco, CA	December 5, 2018.
95,464	Tenneco Inc	Lincoln, NE	December 6, 2018.
95,466	Accenture LLP, Software Utility Services (SUS) Division	Minneapolis, MN	December 9, 2018.
95,493	Powerex, Inc	Youngwood, PA	December 16, 2018.
95,504	JTEKT North America, Staffmark, Aerotek	Orangeburg, SC	December 20, 2018.
95,506	Morgan Stanley Services Group, Inc., Corporate & Funding Technology (CFT).	New York, NY	December 20, 2018.
95,552	Koos Manufacturing, Inc	South Gate, CA	April 7, 2019.
95,577	Constantia Colmar, LLC., Constantia Flexibles America Company, PeopleShare.	Colmar, PA	January 17, 2019.
95,590	International Automotive Components (IAC), EG Workforce Solutions	Mendon, MI	January 22, 2019.
95,591	Liberty Mutual Group, Inc., Agent Distribution & Services, Channel Support Operations Department, etc.	Montoursville, PA	January 22, 2019.
95,650	Langer Biomechanics, Inc., Orthotics Holdings, Inc., Aerotek	Ronkonkoma, NY	February 4, 2019.
95,654	Brazeway, LLC, Brazeway Kentucky Plant, Evaporator Cell 6, Axel Johnson, Manpower, etc.	Hopkinsville, KY	February 5, 2019.
95,664	Spang Engineered Solutions, Magnetics Division, Spang & Company, Corporate Job Bank.	Phonenix, AZ	February 5, 2019.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
95,179	Innocor Foam Technologies, Division 5600, Innocor, Inc., Manpower	Lebanon, MO	September 12, 2018
95,201	United State Steel Corporation, Great Lakes Works	Ecorse, MI	September 20, 2018
95,225	Conifex El Dorado, Inc., Conifex USA, Inc	El Dorado, AR	September 26, 2018
95,262	E. Roko Distributions, Inc., E. Roko Distributors, LTD	Kent, WA	October 4, 2018
95,524	Cree, Inc., Radio Frequency (RF) Business	Morgan Hill, CA	December 31, 2018
95,589	Ducommun Inc., Structures Solutions, Penmac Staffing, Contract Engineering Service, PMG.	Parsons, KS	January 22, 2019
95,608	Schenker Inc., Randstad, Aerotek	Wichita, KS	January 24, 2019
95,612	Georgia-Pacific Gypsum, LLC, Cuba Gypsum Facility, Georgia-Pacific Building Products Operations LP, etc.	Cuba, MO	January 27, 2019

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the requirements of Trade Act section 222 (a)(1) and (b)(1) (significant worker total/partial separation or threat of total/partial separation), or (e) (firms identified by the International Trade Commission), have not been met.

TA–W No.	Subject firm	Location	Impact date
95,034	Transaction Network Services, Inc., Trident Private Holdings I, Accenture, Aricent Technologies, etc.	Reston, VA.	
95,291	Caterpillar Inc., Global Financial Service Division	Peoria, IL.	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both), or (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
94,665	JK Architecture Engineering	Auburn, CA.	
95,183	Bausch Health US, LLC, Customer Service, Bausch + Lomb/International division, etc.	Irvine, CA.	
95,213	Medtronic Plc, QC Analytical Lab, Cardiac & Vascular Group	Santa Rosa, CA.	
95,251	Daimler Trucks North America, Cleveland Truck Manufacturing Plant, Daimler AG.	Cleveland, NC.	
95,523	Volvo Trucks North America, New River Valley Operations, Volvo Group.	Dublin, VA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
94,698	Lumentum Operations LLC, Lumentum Holdings Inc., Randstad USA	Milpitas, CA.	
94,882	AT&T Business—Global Operations & Services, Delivery Excellence/Regional Ordering Customer Care Team, etc.	Bellaire, TX.	
94,917	Johnny Appleseed, Inc., Orchard Portfolio Division, Bluestem Brands Inc.	Middleton, MA.	
94,997	TMK–IPSCO, IPSCO Tubulars Inc	Camanche, IA.	
95,058	International Ingredient Corporation, Snelling	Clovis, NM.	
95,070	Alsico USA, Inc., 3B Holdings, Accountemps, Randstad USA	Kent, OH.	
95,132	Welocalize, Inc., NEPAL Parent Holdings, LLC, Linguistic Reviewers	Portland, OR.	
95,202	Bimbo Bakeries USA, Inc., Bimbo Bakeries Inc., Grupo Bimbo, S.A.B. de C.V.	South Sioux City, NE.	
95,210	Quad/Graphics Inc., Shakopee Minnesota Plant, Masterson Staffing Services, Atlas Staffing, etc.	Shakopee, MN.	
95,239	Tire Tread Development	Mogadore, OH.	
95,241	Bayou Steel BD Holdings LLC, EIU, Adecco, Core LLC, Personnel Consulting, River Parish Contractors, etc.	LaPlace, LA.	
95,260	SMM New England Corporation, Sims Metal Management, Ship Repair Business, Metal Management Northeast.	Providence, RI.	
95,355	Morgantown Machine & Hydraulics of West Virginia	Morgantown, WV.	
95,582	Fort Dearborn Company, FD Winchester, LLC, Fort Dearborn Company.	Harahan, LA.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
95,349	Chattem Chemicals, Inc	Chattanooga, TN.	
95,663	Resolute Forest Products	Augusta, GA.	

The following determinations terminating investigations were issued because the worker group on whose behalf the petition was filed is covered under an existing certification.

TA–W No.	Subject firm	Location	Impact date
94,644	Georgia-Pacific Consumer Operations LLC, Port Hudson Operations, Georgia-Pacific LLC, Koch Industries Inc.	Zachary, LA.	
94,644A	Georgia-Pacific Consumer Operations LLC, Sterling CNS Mill, Georgia-Pacific Building Products Operations LP, etc.	Brunswick, GA.	
94,940	Georgia-Pacific Consumer Operations LLC, Crossett Paper Operations, Georgia-Pacific LLC, Koch Industries Inc.	Crossett, AR.	
95,010	Sitel Operating Corporation, Sitel LLC, Sitel Worldwide Corporation	Caribou, ME.	

I hereby certify that the aforementioned determinations were issued during the period of *February 1, 2020 through February 29, 2020.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this day of March 10th, 2020.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2020–06089 Filed 3–23–20; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Administrator of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Administrator, Office of Trade Adjustment Assistance, at the address shown below, no later than April 3, 2020.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Administrator, Office of Trade Adjustment Assistance, at the address shown below, not later than April 3, 2020.

The petitions filed in this case are available for inspection at the Office of the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, this 10th day of March 2020.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

112 TAA Petitions Instituted Between 2/1/20 and 2/29/20

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
95636	L.A. Darling (State/One-Stop)	Paragould, AR	02/03/20	01/31/20
95637	Carl Zeiss Vision (State/One-Stop)	Clackamas, OR	02/04/20	02/03/20
95638	FXI Inc. (State/One-Stop)	Portland, OR	02/04/20	01/31/20
95639	Focus: HOPE Companies (Company)	Detroit, MI	02/04/20	02/03/20
95640	J2Global (State/One-Stop)	Los Angeles, CA	02/04/20	02/03/20
95641	Leo D Bernstein & Sons, Inc. DBA Bernstein (Company)	Shaftsbury, VT	02/04/20	02/03/20
95642	Logistics Insight Corporation (State/One-Stop)	Detroit, MI	02/04/20	02/03/20
95643	MAHLE Engine Componants USA Inc. (State/One-Stop)	Russellville, AR	02/04/20	02/03/20
95644	Petrbras America (Workers)	Houston, TX	02/04/20	02/03/20
95645	State Street Bank (Workers)	Quincy, MA	02/04/20	02/03/20
95646	Domestic Corporation (State/One-Stop)	LaGrange, IN	02/05/20	02/04/20
95647	Dun & Bradstreet (State/One-Stop)	Waltham, MA	02/05/20	01/31/20
95648	Hexcel Corporation (Company)	Burlington, WA	02/05/20	02/04/20
95649	Kaiser Foundation Health Plan of Washington (State/One-Stop).	Renton, WA	02/05/20	02/04/20
95650	Langer Biomechanics, Inc. (State/One-Stop)	Ronkonkoma, NY	02/05/20	02/04/20
95651	Rosenberger North America (State/One-Stop)	Plano, TX	02/05/20	02/04/20
95652	Tripwire Inc. (State/One-Stop)	Portland, OR	02/05/20	02/04/20
95653	Blount International, Inc. (State/One-Stop)	Portland, OR	02/06/20	02/05/20
95654	Brazeway, LLC (State/One-Stop)	Hopkinsville, KY	02/06/20	02/05/20
95655	Dun & Bradstreet (Workers)	Austin, TX	02/06/20	02/05/20
95656	Exela Technologies (wages paid under Banctec) (State/One-Stop).	Irving, TX	02/06/20	02/05/20
95657	Frontier Communications (wage Citizens Telecom) (State/One-Stop).	Irving, TX	02/06/20	02/05/20
95658	LEDVANCE, LLC. (Company)	Wilmington, MA	02/06/20	02/05/20
95659	Lovelace Health System (State/One-Stop)	Albuquerque, NM	02/06/20	02/05/20
95660	Mount Vernon Mills, Alto, Georgia Plant (Company)	Alto, GA	02/06/20	01/13/20
95661	OEMMCCO, Inc. (Company)	Kenosha, WI	02/06/20	02/05/20
95662	Omega Pacific (Carabiners) (State/One-Stop)	Airway Heights, WA	02/06/20	02/05/20
95663	Resolute Forest Products (Company)	Augusta, GA	02/06/20	02/05/20
95664	Spang Engineered Solutions (Company)	Phoenix, AZ	02/06/20	02/05/20
95665	Accenture (State/One-Stop)	Indianapolis, IN	02/07/20	02/06/20
95666	Associated Spring, a Business of Barnes Group, Inc. (State/One-Stop).	Corry, PA	02/07/20	02/06/20
95667	Daimler Trucks North America—Gastonia Components and Logistics (Union).	Gastonia, NC	02/07/20	02/06/20

112 TAA PETITIONS INSTITUTED BETWEEN 2/1/20 AND 2/29/20—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
95668	Parallon Employer LLC (State/One-Stop)	Nashville, TN	02/07/20	02/06/20
95669	Coxcom Inc. (State/One-Stop)	West Warwick, RI	02/10/20	02/07/20
95670	LMI Aerospace, Inc. (State/One-Stop)	Cottonwood Falls, KS	02/10/20	02/07/20
95671	Motus One (State/One-Stop)	Troy, MI	02/10/20	02/07/20
95672	VersaLogic Corporation (State/One-Stop)	Tualatin, OR	02/10/20	02/07/20
95673	AMES Companies, Inc. (State/One-Stop)	Falls City, NE	02/11/20	02/10/20
95674	Baptist Health Corporate Office (Workers)	Louisville, KY	02/11/20	01/27/20
95675	INNIO Waukesha Gas Engines Inc. (Company)	Waukesha, WI	02/11/20	02/10/20
95676	Western Kentucky Coal Company (Workers)	Centertown, KY	02/11/20	01/29/20
95677	AIG PC Global Services, Inc. (State/One-Stop)	Olathe, KS	02/12/20	02/11/20
95678	Alight Solutions (State/One-Stop)	Lincolnshire, IL	02/12/20	02/10/20
95679	C&G Partnership at GE Drives and Control (State/One-Stop).	Salem, VA	02/12/20	02/11/20
95680	Harte Hanks (State/One-Stop)	Austin, TX	02/12/20	02/11/20
95681	Honeywell-American Meter Corporation (State/One-Stop)	Nebraska City, NE	02/12/20	02/11/20
95682	JC Penny Customer Care Center (State/One-Stop)	Lenexa, KS	02/12/20	02/11/20
95683	Samsung Austin Semiconductor LLC (State/One-Stop)	Austin, TX	02/12/20	02/11/20
95684	TCS e-Serve International (TATA) (State/One-Stop)	Cedar Rapids, IA	02/12/20	02/11/20
95685	Armstrong Flooring Inc. (State/One-Stop)	South Gate, CA	02/13/20	02/12/20
95686	Atlas Copco (IAS) (State/One-Stop)	Auburn Hills, MI	02/13/20	02/12/20
95687	Axiom Engineering (State/One-Stop)	Wichita, KS	02/13/20	02/13/20
95688	Eaton Corporation (State/One-Stop)	Shenandoah, IA	02/13/20	02/12/20
95689	Harte Hanks (State/One-Stop)	Texarkana, TX	02/13/20	02/12/20
95690	WABTEC formerly GE Transportation (State/One-Stop)	Erie, PA	02/13/20	02/12/20
95691	APC by Schneider Electric (State/One-Stop)	O'Fallon, MO	02/14/20	02/13/20
95692	Omni GSS Inc. (Workers)	Philadelphia, PA	02/14/20	02/13/20
95693	UiPath, Inc. (State/One-Stop)	Brooklyn, NY	02/14/20	02/14/20
95694	Unique Chardan Inc. (State/One-Stop)	Bryan, OH	02/14/20	02/13/20
95695	Altex (State/One-Stop)	Westfield, IN	02/18/20	02/18/20
95696	Nike AIR Manufacturing Innovation (State/One-Stop)	Beaverton, OR	02/18/20	02/14/20
95697	Quest Software (State/One-Stop)	Aliso Viejo, CA	02/18/20	02/14/20
95698	Wittrock Healthcare (State/One-Stop)	Greensburg, IN	02/18/20	02/14/20
95699	Bank Of America (State/One-Stop)	East Providence, RI	02/19/20	02/18/20
95700	Concentrix CVG Corporation (State/One-Stop)	Rio Rancho, NM	02/19/20	02/18/20
95701	CSC—Computer Services Corporation (State/One-Stop)	Warwick, RI	02/19/20	02/18/20
95702	Galesburg Castings Inc. (Company)	Galesburg, IL	02/19/20	11/26/19
95703	HED Cycling Products (State/One-Stop)	Roseville, MN	02/19/20	02/18/20
95704	Standard Insurance Company (State/One-Stop)	Hillsboro, OR	02/19/20	02/18/20
95705	Tenneco Inc. (State/One-Stop)	Seward, NE	02/19/20	02/18/20
95706	The Anthem Company Inc. (State/One-Stop)	Indianapolis, IN	02/20/20	02/20/20
95707	Armstrong Flooring AHF (State/One-Stop)	Oneida, TN	02/20/20	02/19/20
95708	Erie Coke Corporation (State/One-Stop)	Erie, PA	02/20/20	02/19/20
95709	Qualfon DSG LLC (Workers)	Highland Park, MI	02/20/20	02/19/20
95710	United Healthcare Services (State/One-Stop)	Shelton, CT	02/20/20	02/19/20
95711	UTC Aerospace (State/One-Stop)	Chula Vista, CA	02/20/20	02/19/20
95712	Confluent Medical Technologies (State/One-Stop)	Campbell, CA	02/21/20	02/20/20
95713	AdaptHealth (State/One-Stop)	Moon Township, PA	02/21/20	02/20/20
95714	CorVel Corporation (Symbeo) (State/One-Stop)	Portland, OR	02/21/20	02/20/20
95715	Delphi Powertrain Technologies (State/One-Stop)	West Henrietta, NY	02/21/20	02/20/20
95716	Forge Graphics Works Inc. (State/One-Stop)	Portland, OR	02/21/20	02/20/20
95717	HCL America Inc. (State/One-Stop)	Providence, RI	02/21/20	02/20/20
95718	HCL America (State/One-Stop)	Sunnyvale, CA	02/21/20	02/20/20
95719	Meggitt Aircraft Braking Systems (State/One-Stop)	Akron, OH	02/21/20	02/20/20
95720	Seneca Foods Corporation (State/One-Stop)	Rochester, MN	02/21/20	02/20/20
95721	Fabtex Inc. (State/One-Stop)	Orange, CA	02/24/20	02/21/20
95722	Futuredontics (State/One-Stop)	Los Angeles, CA	02/24/20	02/21/20
95723	Hybrid Promotions, LLC (State/One-Stop)	Cypress, CA	02/24/20	02/21/20
95724	Joy of Life Surrogacy (State/One-Stop)	Ontario, CA	02/24/20	02/21/20
95725	Knape & Vogt Manufacturing Company (Workers)	Grand Rapids, MI	02/24/20	02/19/20
95726	Tenaris Corporation (Union)	Ambridge, PA	02/24/20	02/12/20
95727	Darex LLC (State/One-Stop)	Ashland, OR	02/25/20	02/24/20
95728	Dell Products LP (State/One-Stop)	Santa Clara, CA	02/25/20	02/24/20
95729	Metal Powder Products (State/One-Stop)	Saint Marys, PA	02/25/20	02/24/20
95730	Par Pharmaceuticals (State/One-Stop)	Irvine, CA	02/25/20	02/24/20
95731	Paradigm Precision (Company)	Tempe, AZ	02/25/20	02/24/20
95732	State Street Corporation (State/One-Stop)	Quincy, MA	02/25/20	02/25/20
95733	Carestream Health Inc. (State/One-Stop)	Rochester, NY	02/26/20	02/25/20
95734	Concept Systems Manufacturing (State/One-Stop)	San Jose, CA	02/26/20	02/25/20
95735	IBM Global Business Services (Workers)	Armonk, NY	02/26/20	02/25/20
95736	Mersen USA St. Marys—PA Corporation (Union)	Saint Marys, PA	02/26/20	02/25/20
95737	Mr. Cooper (Nation Star Mortgage) (State/One-Stop)	Beaverton, OR	02/26/20	02/25/20

112 TAA PETITIONS INSTITUTED BETWEEN 2/1/20 AND 2/29/20—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
95738	Precision Aluminum Inc. (State/One-Stop)	Wadsworth, OH	02/26/20	02/25/20
95739	Virco Manufacturing Corporation (State/One-Stop)	Conway, AR	02/26/20	02/25/20
95740	AALFS Manufacturing Company (State/One-Stop)	Mena, AR	02/27/20	02/26/20
95741	Detroit Diesel (State/One-Stop)	Emporia, KS	02/27/20	02/26/20
95742	DSV Road Transport Inc. (DSV Air & Sea Inc.) (State/One-Stop).	Portland, OR	02/27/20	02/26/20
95743	Flowmaster Inc. (Company)	West Sacramento, CA	02/27/20	02/26/20
95744	MHelpDesk (State/One-Stop)	Fairfax, VA	02/27/20	02/26/20
95745	L.L.Bean, Inc. (Workers)	Freeport, ME	02/28/20	02/27/20
95746	Mondelez International (Workers)	Wilkes Barre, PA	02/28/20	02/27/20
95747	Navex Global (Workers)	Rexburg, ID	02/28/20	02/27/20

[FR Doc. 2020–06090 Filed 3–23–20; 8:45 am]
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DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligiblity To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *February 1, 2020 through February 29, 2020.* Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

Affirmative/Negative Determinations Regarding Applications for Reconsideration

The certifying officer may grant an application for reconsideration under the following circumstances: (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous; (2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or (3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the determination. See 29 CFR 90.18(c).

Affirmative Determinations Regarding Applications for Reconsideration

The following Applications for Reconsideration have been received and granted. See 29 CFR 90.18(d). The group of workers or other persons showing an interest in the proceedings may provide written submissions to show why the determination under reconsideration should or should not be modified. The submissions must be sent no later than ten days after publication in Federal Registration to the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210. See 29 CFR 90.18(f).

TA–W No.	Subject firm	Location
95259	Norcraft Companies L.P.	Lynchburg, VA.

Notice of Revised Certifications of Eligibility

Revised certifications of eligibility have been issued with respect to cases where affirmative determinations and certificates of eligibility were issued initially, but a minor error was discovered after the certification was issued. The revised certifications are issued pursuant to the Secretary's authority under section 223 of the Act and 29 CFR 90.16. Revised Certifications of Eligibility are final determinations for purposes of judicial review pursuant to section 284 of the Act (19 U.S.C. 2395) and 29 CFR 90.19(a).

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
93,624	Georgia-Pacific Consumer Operations LLC	Camas, WA	3/8/2017	Worker Group Clarification.
93,624A	Georgia-Pacific Consumer Operations LLC	Zachary, LA	3/8/2017	Worker Group Clarification.
93,624B	Georgia-Pacific Consumer Operations LLC	Crossett, AR	3/8/2017	Worker Group Clarification.
94810	Georgia-Pacific Wood Products LLC	Coos Bay, OR	5/13/2018	Worker Group Clarification.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
94,810A	Georgia-Pacific Wood Products LLC	Brunswick, GA	5/13/2018	Worker Group Clarification.
94,783	Sitel Operating Corporation	Albuquerque, NM	5/3/2018	Worker Group Clarification.
94,783A	Sitel Operating Corporation	Caribou, ME	5/3/2018	Worker Group Clarification.

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
95,054A	Goodman Company, L.P	Fayetteville, TN	8/7/2018

I hereby certify that the aforementioned determinations were issued during the period of *February 1, 2020 through February 29, 2020.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 10th day of March 2020.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2020–06091 Filed 3–23–20; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Noise Exposure Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 23, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and incidents (see 29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining said information (see 29 U.S.C. 657). The collection of information specified in the Noise Standard (29 CFR 1910.95) protects workers from suffering material hearing impairment. The collection of information contained in the Noise Standard includes conducting noise monitoring; notifying workers when they are exposed at or above an 8-hour time-weighted average of 85 decibels (dBa); providing workers with initial and annual audiograms; notifying workers of a loss in hearing based on comparing audiograms; maintaining records of workplace noise exposure and workers' audiograms; and allowing workers access to materials and records required by the Standard. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 21, 2019 (84 FR 64349).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Occupational Noise Exposure Standard.

OMB Control Number: 1218–0048.

Affected Public: Private Sector: Businesses or other for-profits.

Total Estimated Number of Respondents: 215,624.

Total Estimated Number of Responses: 22,630,728.

Total Estimated Annual Time Burden: 2,240,636 hours.

Total Estimated Annual Other Costs Burden: $34,812,006.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: March 18, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–06146 Filed 3–23–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0040]

SGS North America, Inc.: Grant of Expansion of Recognition and Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for SGS North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL). Additionally, OSHA announces the addition of three test standards to the NRTL Program's List of Appropriate Test Standards.

DATES: The expansion of the scope of recognition becomes effective on March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html).*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of SGS of North America, Inc. (SGS), as a NRTL. SGS's expansion covers the addition of twelve test standards to its scope of recognition. Additionally, OSHA announces the addition of three test standards to the NRTL Program's List of Appropriate Test Standards.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The agency processes applications by a NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding and, in the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL that details the scope of recognition. These pages are available from the agency's website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

SGS submitted two applications, one dated February 14, 2018 (OSHA–2006–0040–0049), another dated October 2, 2018 (OSHA–2006–0050), which was revised on March 9, 2019 (OSHA–2006–0040–0051), to expand its scope of recognition to include the addition of twelve test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to these applications.

OSHA published the preliminary notice announcing SGS's expansion application and proposed addition to the NRTL Program's List of Appropriate Test Standards in the **Federal Register** on November 5, 2019 (84 FR 59649). The agency requested comments by November 20, 2019, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of SGS's scope of recognition.

To obtain or review copies of all public documents pertaining to SGS's applications, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210. Docket No. OSHA–2006–0040 contains all materials in the record concerning SGS's recognition.

II. Final Decision and Order

OSHA staff examined SGS's expansion applications, the capability to meet the requirements of the test standards, and other pertinent information. Based on a review of this evidence, OSHA finds that SGS meets the requirements of 29 CFR 1910.7 for expansion of the recognition, subject to the specified limitation and conditions listed. OSHA, therefore, is proceeding with this final notice to grant expansion of SGS's scope of recognition. OSHA limits the expansion of SGS's scope of recognition to testing and certification of products for demonstration of conformance to the test standard listed in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 22	Standard for Amusement and Gaming Machines.
UL 430	Electric Waste Disposers.
UL 466	Standard for Electric Scales.
UL 574	Standard for Electric Oil Heaters.
UL 826	Standard for Electric Clocks.
UL 1740	Robots and Robotic Equipment.
UL 2524	In-Building 2-Way Emergency Radio Communication Enhancement Systems.
ANSI Z83.26	Gas-Fired Outdoor Infrared Patio Heaters.
ANSI Z21.58	Outdoor Cooking Gas Appliances.
ANSI Z21.89	Outdoor Cooking Specialty Gas Appliances.
ANSI Z83.7	American National Standard/CSA Standard for Gas-Fired Construction Heaters.
ANSI Z21.1	Household Cooking Gas Appliances.

In this notice, OSHA also announces the addition of three new test standards to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standards that are new to the NRTL Program. OSHA has determined that these test standards are appropriate test standards and will include it in the NRTL Program's List of Appropriate Test Standards.

TABLE 2—TEST STANDARDS OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 2524	In-Building 2-Way Emergency Radio Communication Enhancement Systems.
ANSI Z83.26 ..	Gas-Fired Outdoor Infrared Patio Heaters.
ANSI Z21.89 ..	Outdoor Cooking Specialty Gas Appliances.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, SGS must abide by the following conditions of the recognition:

1. SGS must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in the operations as a NRTL, and provide details of the change(s);

2. SGS must meet all the terms of the recognition and comply with all OSHA policies pertaining to this recognition; and

3. SGS must continue to meet the requirements for recognition, including all previously published conditions on SGS's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of SGS, subject to the limitation and conditions specified above. OSHA also adds one new test standard to the NRTL Program's List of Appropriate Test Standards.

III. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on March 18, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–06084 Filed 3–23–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0012]

Modification to the List of Appropriate NRTL Program Test Standards and the Scopes of Recognition of Several NRTLs

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to: (1) Add one new test standard to the Nationally Recognized Testing Laboratories (NRTL) Program's list of appropriate test standards; (2) delete or replace several test standards from the NRTL Program's list of appropriate test standards; and (3) update the scope of recognition of several NRTLs.

DATES: The actions contained in this notice will become effective on March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration; telephone: (202) 693–2110 or email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Background

The NRTL Program recognizes organizations that provide product-safety testing and certification services to manufacturers. These organizations perform testing and certification for purposes of the program, to U.S. consensus-based product-safety test standards. The products covered by the NRTL Program consist of those items for which OSHA safety standards require ''certification'' by a NRTL. The requirements affect electrical products and 38 other types of products. OSHA does not develop or issue these test standards, but generally relies on standards development organizations (SDOs), which develop and maintain the standards using a method that provides input and consideration of views of industry groups, experts, users, consumers, governmental authorities and others having broad experience in the safety field involved.

Addition of New Test Standards to the NRTL List of Appropriate Test Standards

Periodically, OSHA will add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by a NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) Monitoring notifications issued by certain SDOs; (2) reviewing applications by NRTLs or applicants seeking recognition to include a new test standard in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties that a new test standard may be appropriate to add to the list of appropriate standards. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers, addresses a type of product that no standard previously covered, or is otherwise new to the NRTL Program.

SDO Deletion and Replacement of Test Standards

The NRTL Program regulations require that appropriate test standards be maintained and current (29 CFR 1910.7(c)). A test standard withdrawn by a standards development organization is no longer considered an appropriate test standard (CPL 01–00–004, NRTL Program Policies, Procedures and Guidelines Directive, Chapter 2, IX). It is OSHA's policy to remove recognition of withdrawn test standards by issuing a correction notice in the **Federal Register** for all NRTLs

recognized for the withdrawn test standards. However, SDOs frequently will designate a replacement standard for withdrawn standards. OSHA will recognize a NRTL for an appropriate replacement test standard if the NRTL has the requisite testing and evaluation capability for the replacement test standard.

One method that NRTLs may use to show such capability involves an analysis to determine whether any testing and evaluation requirements of existing test standards in a NRTL's scope are comparable (*i.e.,* are completely or substantially identical) to the requirements in the replacement test standard. If OSHA's analysis shows the replacement test standard does not require additional or different technical capability than an existing test standard(s), and the replacement test standard is comparable to the existing test standard(s), then OSHA can add the replacement test standard to affected NRTLs' scopes of recognition. If OSHA's analysis shows the replacement test standard requires an additional or different technical capability, or the replacement test standard is not comparable to any existing test standards, each affected NRTL seeking to have OSHA add the replacement test standard to the NRTL's scope of recognition must provide information to OSHA that demonstrates technical capability.

Other Reasons for Removal of Test Standards From the NRTL List of Appropriate Test Standards

OSHA may choose to remove a test standard from the NRTL Program's List of Appropriate Test Standards based on an internal review in which NRTL Program staff review the NRTL Program's List of Appropriate Test Standards to determine if the test standards conform to the definition of an appropriate test standard defined in NRTL Program regulations and policy. There are several reasons for removing a test standard based on this review. First, a document that provides the methodology for a single test is a test method rather than an appropriate test standard (29 CFR 1910.7(c)). As stated above, a test standard must specify the safety requirements for a specific type of product(s). A test method, however, is a specified technical procedure for performing a test, as such, a test method is not an appropriate test standard. While a NRTL may use a test method to determine if certain safety requirements are met, a test method is not itself a safety requirement for a specific product category.

Second, a document that focuses primarily on usage, installation, or maintenance requirements would also not be considered an appropriate test standard (NRTL Program Policies, Procedures and Guidelines Directive, CPL–01–00–004, Chapter 2, Section VIII, B). In some cases, however, a document may also provide safety test specifications in addition to usage, installation, and maintenance requirements. In such cases, the document would be retained as an appropriate test standard based on the safety test specifications.

Finally, a document may not be considered an appropriate test standard if the document covers products for which OSHA does not require testing and certification (NRTL Program Policies, Procedures and Guidelines Directive, CPL–01–00–004, Chapter 2, Section VIII, B). Similarly, a document that covers electrical product components would not be considered an appropriate test standard. These documents apply to types of components that have limitation(s) or condition(s) on their use, which are not appropriate for use as end-use products. These documents also specify that these types of components are for use only as part of an end-use product. NRTLs, however, evaluate such components only in the context of evaluating whether end-use products requiring NRTL approval are safe for use in the workplace. Testing such components alone would not indicate that the end-use products containing the components are safe for use. Accordingly, as a matter of policy, OSHA considers that documents covering such components are not appropriate test standards under the NRTL Program. OSHA notes, however, that it is not proposing to delete from NRTLs' scope of recognition any test standards covering end-use products that contain such components.[1]

In addition, OSHA notes that, to conform to a test standard covering an end-use product, a NRTL must still determine that the components in the product comply with the components' specific test standards. In making this determination, NRTLs may test the components themselves, or accept the testing of a qualified testing organization that a given component conforms to the particular test standard. OSHA reviews each NRTL's procedures to determine which approach the NRTL will use to address components, and reviews the end-use product testing to verify the NRTL appropriately addresses that product's components.

Proposed Modification to the List of Appropriate NRTL Program Test Standards and the Scope of Recognition of Several NRTLs

In an April 10, 2019 **Federal Register** notice (84 FR 14412, referred to in this notice as ''Proposed Modification,'' and available at *www.regulations.gov* under Docket ID OSHA–2013–0012–0011), OSHA proposed: Deleting several withdrawn and deleted test standards from the NRTL Program's list of appropriate test standards; incorporating into the NRTL Program's list of appropriate test standards replacement test standards for some of the withdrawn and deleted test standards; and updating the scope of recognition of several NRTLs. In response to this notice, two comments (OSHA–2013–0012–0023) and (OSHA–2013–0012–0024) were received from the public after the comment period ended. The comments were not related to this **Federal Register** notice, and OSHA has not made any modifications to this notice based on these comments.

OSHA further published a **Federal Register** notice regarding insulating links on March 14, 2019 (84 FR 9384) and announced the final decision on July 29, 2019 (84 FR 35887). This **Federal Register** notice addressed the issue raised in the comments within 84 FR 14412. Therefore the issue raised in the comments will not be addressed in this notice.

II. Final Decision To Add a New Test Standard to the NRTL Program's List of Appropriate Test Standards

In this notice, OSHA announces the final decision to add one test standard, UL 61010–2–061, Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–061: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization to the NRTL Program's list of appropriate test standards. In the Proposed Modification, OSHA proposed replacing withdrawn standards with nine standards, eight of which are already included in the NRTL Program's list of appropriate test standards. The standard

[1] OSHA notes also that some types of devices covered by these documents, such as capacitors and transformers, may be end-use products themselves, and tested under other test standards applicable to such products. For example, the following test standard covers transformers that are end-use products: UL 1562 Standard for Transformers, Distribution, Dry-Type—Over 600 Volts. OSHA is not proposing to delete such test standards from NRTLs' scopes of recognition.

OSHA will add to the NRTL Program's list of appropriate test standards is outlined below in Table 1 below:

TABLE 1—TEST STANDARD OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard No.	Test standard title
UL 61010–2–061	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–061: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.

II. Final Decision To Remove a Test Standard to the NRTL Program's List of Appropriate Test Standards

In this notice, OSHA announces the final decision to delete twenty-nine withdrawn and deleted test standards from the NRTL Program's List of Appropriate Test Standards. OSHA also incorporates into the NRTL Program's List of Appropriate Test Standards replacement test standards for some of the withdrawn and deleted test standards as described below in Table 2:

TABLE 2—TEST STANDARDS OSHA IS REMOVING FROM NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Deleted test standard	Test standard title	Reason for deletion	Replacement standard(s)
ANSI C37.44	Distribution Oil Cutouts and Fuse Links	Withdrawn	None.
IEEE C37.09	Standard Test Procedure for High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis.	Withdrawn	None.
IEEE C37.29	Low-Voltage AC Power Circuit Protectors Used in Enclosures.	Withdrawn	None.
IEEE C37.45	Distribution Enclosed Single-Pole Air Switches.	Withdrawn	None.
NEMA C37.52	Low-Voltage AC Power Circuit Protectors Used in Enclosures—Test Procedures.	Withdrawn	None.
IEEE C37.53	High-Voltage Current Motor-Starter Fuses—Conformance Test Procedures.	Withdrawn	None.
ISA 82.02.01	Electric and Electronic Test, Measuring, Controlling and Related Equipment: General Requirement.	Withdrawn	None.
UL 1093	Halogenated Agent Fire Extinguishers	Withdrawn	None.
UL 1244	Electrical and Electronic Measuring and Testing Equipment.	Withdrawn	None.
UL 1448	Electric Hedge Trimmers	Withdrawn and replaced	UL 60745–2–15 Particular Requirements for Hedge Trimmers.
ISA 60079–2	Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p".	Withdrawn and replaced	UL 60079–2 Explosive Atmospheres—Part 2: Protection by Pressurized Enclosures "p".
ISA 60079–5	Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling "q".	Withdrawn and replaced	UL 60079–5 Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling "q".
ISA 60079–18	Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".	Withdrawn and replaced	UL 60079–18 Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".
ISA 60079–26	Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.	Withdrawn and replaced	UL 60079–26 Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.
UL 745–1	Portable Electric Tools	Withdrawn	None.
UL 745–2	Particular Requirements of Drills	Withdrawn	None.
UL 745–2–3	Particular Requirements for Grinders, Polishers and Disk-Type Sanders.	Withdrawn	None.
UL 745–2–17	Particular Requirements for Circular Saws and Circular Knives.	Withdrawn	None.
UL 745–2–36	Particular Requirements for Hand Motor Tools.	Withdrawn	None.
UL 745–2–37	Particular Requirements for Plate Jointers	Withdrawn	None.
UL 61010A–1	Electrical Equipment for Laboratory Use; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010A–2–010	Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for the Heating of Materials.	Withdrawn and replaced	UL 61010–2–010 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.
UL 61010A–2–020	Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Centrifuges.	Withdrawn and replaced	UL 61010–2–020 Electrical Equipment for Measurement, Control, and Laboratory Use—Part 2–020: Particular Requirements for Laboratory Centrifuges.

TABLE 2—TEST STANDARDS OSHA IS REMOVING FROM NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS—Continued

Deleted test standard	Test standard title	Reason for deletion	Replacement standard(s)
UL 61010A–2–041	Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Autoclaves Using Steam for the Treatment of Medical Materials for Laboratory Purposes.	Withdrawn and replaced ...	UL 61010–1 (no direct replacement).
UL 61010A–2–051	Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment Mixing and Stirring.	Withdrawn and replaced ..	UL 61010–2–051 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–051: Particular Requirements for Laboratory Equipment for Mixing and Stirring.
UL 61010A–2–061	Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.	Withdrawn and replaced ..	UL 61010–2–061 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–061: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.
UL 61010B–1	Electrical Measuring and Test Equipment; Part 1: General Requirements.	Withdrawn and replaced ...	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010B–2–031	Electrical Equipment for Measurement, Control and Laboratory Use: Part 2: Particular Requirements for Hand-Held Probe Assemblies for Electrical Measurement and Test.	Withdrawn and replaced ..	UL 61010–1 (no direct replacement).
UL 61010C–1	Process Control Equipment	Withdrawn and replaced ..	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.

III. Final Decision To Modify Affected NRTLs' Scope of Recognition

In this notice, OSHA announces the final decision to update the scope of recognition of several NRTLs. The tables in this section (Table 3 thru Table 10) list, for each affected NRTL, the test standard(s) that OSHA will delete from the scope of recognition and, when applicable, the test standard(s) that OSHA will incorporate into the scope of recognition to replace withdrawn (and deleted) test standards.

TABLE 3—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF THE CANADIAN STANDARDS ASSOCIATION

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 61010A–2–020—Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment for Laboratory Centrifuges.	Standard withdrawn by Standards Organization.	UL 61010–2–020—Standard for Safety Requirements for Electrical Equipment for Laboratory Use; Part 2–020: Particular Requirements for Laboratory Equipment for Laboratory Centrifuges.
IEEE C37.09 Standard Test Procedure for AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis.	Withdrawn	None.
IEEE C37.29 Low-Voltage AC Power Circuit Protectors Used in Enclosures.	Withdrawn	None.
IEEE C37.45 Distribution Enclosed Single-Pole Air Switches.	Withdrawn	None.
NEMA C37.52 Low-Voltage AC Power Circuit Protectors Used in Enclosures—Test Procedures.	Withdrawn	None.
ISA 82.02.01 Electric and Electronic Test, Measuring, Controlling and Related Equipment: General Requirement.	Withdrawn	None.
UL 1244	Withdrawn	None.
UL 1448	Withdrawn and Replaced ...	UL 60745–2–15 Particular Requirements for Hedge Trimmers.
ISA 60079–2 Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p".	Withdrawn and replaced	UL 60079–2 Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p".
ISA 60079–5 Explosive Atmospheres—Part 5: Equipment Protection by Power Filling "q".	Withdrawn and replaced	UL 60079–5 Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling "q".
ISA 60079–18 Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".	Withdrawn and replaced	UL 60079–18 Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".
ISA 60079–26 Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.	Withdrawn and replaced	UL 60079–26 Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.

TABLE 3—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF THE CANADIAN STANDARDS ASSOCIATION—Continued

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 745–1 Portable Electric Tools	Withdrawn	None.
UL 745–2–1 Particular Requirements of Drills	Withdrawn	None.
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives.	Withdrawn	None.
UL 745–2–17 Particular Requirements for Routers and Trimmers.	Withdrawn	None.
UL 745–2–36 Particular Requirements for Hand Motor Tools.	Withdrawn	None.
UL 745–2–37 Particular Requirements for Plate Jointers	Withdrawn	None.
UL 61010A–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010A–2–010 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for the Heating of Materials.	Withdrawn and replaced	UL 61010–2–010 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.
UL 61010A–2–020 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Centrifuges.	Withdrawn and replaced	UL 61010–2–020 Electrical Equipment for Measurement, Control, and Laboratory Use—Part 2–020: Particular Requirements for Laboratory Centrifuges.
UL 61010A–2–041 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Autoclaves Using Steam for the Treatment of Medical Materials for Laboratory Purposes.	Withdrawn and replaced	UL 61010–1 (no direct replacement).
UL 61010A–2–051 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment Mixing and Stirring.	Withdrawn and replaced	UL 61010–2–051 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–051: Particular Requirements for Laboratory Equipment for Mixing and Stirring.
UL 61010A–2–061 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.	Withdrawn and replaced	UL 61010–2–061 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–061: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.
UL 61010B–1 Electrical Measuring and Test Equipment; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010B–2–031 Electrical Equipment for Measurement, Control and Laboratory Use: Part 2: Particular Requirements for Hand-Held Probe Assemblies for Electrical Measurement and Test.	Withdrawn and replaced	UL 61010–1 (no direct replacement).
UL 61010C–1 Process Control Equipment	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.

TABLE 4—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF FM APPROVALS LLC

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 1093	Withdrawn	None.
ISA 82.02.01 Electric and Electronic Test, Measuring, Controlling and Related Equipment: General Requirement.	Withdrawn	None.
UL 61010A–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010B–1 Electrical Measuring and Test Equipment; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.

TABLE 5—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF INTERTEK TESTING SERVICES, NA

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 61010A–2–020—Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment for Laboratory Centrifuges.	Standard withdrawn by Standards Organization.	UL 61010–2–020—Standard for Safety Requirements for Electrical Equipment for Laboratory Use; Part 2–020: Particular Requirements for Laboratory Centrifuges.

TABLE 5—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF INTERTEK TESTING SERVICES, NA—Continued

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
IEEE C37.29 Low-Voltage AC Power Circuit Protectors Used in Enclosures.	Withdrawn	None.
ISA 82.02.01 Electric and Electronic Test, Measuring, Controlling and Related Equipment: General Requirement.	Withdrawn	None.
UL 1093 Halogenated Agent Fire Extinguishers	Withdrawn	None.
UL 1244 Electrical and Electronic Measuring and Testing Equipment.	Withdrawn	None.
UL 1448 Electric Hedge Trimmers	Withdrawn and Replaced	UL 60745–2–15 Particular Requirements for Hedge Trimmers.
ISA 60079–2 Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p".	Withdrawn and replaced	UL 60079–2 Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p."
ISA 60079–5 Explosive Atmospheres—Part 5: Equipment Protection by Power Filling "q".	Withdrawn and replaced	UL 60079–5 Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling "q."
ISA 60079–18 Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".	Withdrawn and replaced	UL 60079–18 Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m."
ISA 60079–26 Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.	Withdrawn and replaced	UL 60079–26 Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.
UL 745–1 Portable Electric Tools	Withdrawn	None.
UL 745–2–1 Particular Requirements of Drills	Withdrawn	None.
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives.	Withdrawn	None.
UL 745–2–17 Particular Requirements for Routers and Trimmers.	Withdrawn	None.
UL 745–2–36 Particular Requirements for Hand Motor Tools.	Withdrawn	None.
UL 745–2–37 Particular Requirements for Plate Jointers	Withdrawn	None.
UL 61010A–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010A–2–010 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for the Heating of Materials.	Withdrawn and replaced	UL 61010–2–010 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.
UL 61010A–2–020 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Centrifuges.	Withdrawn and replaced	UL 61010–2–020 Electrical Equipment for Measurement, Control, and Laboratory Use—Part 2–020: Particular Requirements for Laboratory Centrifuges.
UL 61010A–2–041 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Autoclaves Using Steam for the Treatment of Medical Materials for Laboratory Purposes.	Withdrawn and replaced	UL 61010–1 (no direct replacement).
UL 61010A–2–051 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment Mixing and Stirring.	Withdrawn and replaced	UL 61010–2–051 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–051: Particular Requirements for Laboratory Equipment for Mixing and Stirring.
UL 61010A–2–061 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.	Withdrawn and replaced	UL 61010–2–061 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–061: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.
UL 61010B–1 Electrical Measuring and Test Equipment; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010B–2–031 Electrical Equipment for Measurement, Control and Laboratory Use: Part 2: Particular Requirements for Hand-Held Probe Assemblies for Electrical Measurement and Test.	Withdrawn and replaced	UL 61010–1 (no direct replacement).
UL 61010C–1 Process Control Equipment	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.

TABLE 6—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF MET LABORATORIES, INC.

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 1448 Electric Edge Trimmers	Withdrawn and Replaced	UL 60745–2–15 Particular Requirements for Hedge Trimmers.

TABLE 6—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF MET LABORATORIES, INC.—Continued

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 1244 Electrical and Electronic Measuring and Testing Equipment.	Withdrawn	None.
UL 61010A–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010B–1 Electrical Measuring and Test Equipment; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010C–1 Process Control Equipment	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.

TABLE 7—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF TUV RHEINLAND OF NORTH AMERICA, INC.

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 1448	Withdrawn and replaced	UL 60745–2–15 Particular Requirements for Hedge Trimmers.
UL 745–1 Portable Electric Tools	Withdrawn	None.
UL 745–2–1 Particular Requirements of Drills	Withdrawn	None.
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives.	Withdrawn	None.
UL 745–2–17 Particular Requirements for Routers and Trimmers.	Withdrawn	None.
UL 745–2–36 Particular Requirements for Hand Motor Tools.	Withdrawn	None.
UL 745–2–37 Particular Requirements for Plate Jointers	Withdrawn	None.
UL 61010A–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010B–1 Electrical Measuring and Test Equipment; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010C–1 Process Control Equipment	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.

TABLE 8—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF TUV SUD AMERICA, INC.

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 61010A–2–020—Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment for Laboratory Centrifuges.	Standard withdrawn by Standards Organization.	UL 61010–2–020—Standard for Safety Requirements for Electrical Equipment for Laboratory Use; Part 2–020: Particular Requirements for Laboratory Centrifuges.
UL 1448	Withdrawn and replaced	UL 60745–2–15 Particular Requirements for Hedge Trimmers.
UL 745–1 Portable Electric Tools	Withdrawn	None.
UL 745–2–1 Particular Requirements of Drills	Withdrawn	None.
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives.	Withdrawn	None.
UL 745–2–17 Particular Requirements for Routers and Trimmers.	Withdrawn	None.
UL 745–2–36 Particular Requirements for Hand Motor Tools.	Withdrawn	None.
UL 745–2–37 Particular Requirements for Plate Jointers	Withdrawn	None.
UL 61010A–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010A–2–010 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for the Heating of Materials.	Withdrawn and replaced	UL 61010–2–010.

TABLE 8—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF TUV SUD AMERICA, INC.—Continued

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 61010A–2–020 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Centrifuges.	Withdrawn and replaced	UL 61010–2–010 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.
UL 61010A–2–041 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Autoclaves Using Steam for the Treatment of Medical Materials for Laboratory Purposes.	Withdrawn and replaced	UL 61010–1 (no direct replacement).
UL 61010A–2–051 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment Mixing and Stirring.	Withdrawn and replaced	UL 61010–2–051 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–051: Particular Requirements for Laboratory Equipment for Mixing and Stirring.
UL 61010A–2–061 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.	Withdrawn and replaced	UL 61010–2–061 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–061: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.
UL 61010B–1 Electrical Measuring and Test Equipment; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010B–2–031 Electrical Equipment for Measurement, Control and Laboratory Use: Part 2: Particular Requirements for Hand-Held Probe Assemblies for Electrical Measurement and Test.	Withdrawn and replaced	UL 61010–1 (no direct replacement).

TABLE 9—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF TUVPSG, INC.

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 745–1 Portable Electric Tools	Withdrawn	None.
UL 745–2–1 Particular Requirements of Drills	Withdrawn	None.
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives.	Withdrawn	None.
UL 745–2–17 Particular Requirements for Routers and Trimmers.	Withdrawn	None.
UL 745–2–36 Particular Requirements for Hand Motor Tools.	Withdrawn	None.
UL 745–2–37 Particular Requirements for Plate Jointers	Withdrawn	None.
UL 61010A–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010A–2–010 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for the Heating of Materials.	Withdrawn and replaced	UL 61010–2–010 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.
UL 61010A–2–020 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Centrifuges.	Withdrawn and replaced	UL 61010–2–020 Electrical Equipment for Measurement, Control, and Laboratory Use—Part 2–020: Particular Requirements for Laboratory Centrifuges.
UL 61010A–2–041 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Autoclaves Using Steam for the Treatment of Medical Materials for Laboratory Purposes.	Withdrawn and replaced	UL 61010–1 (no direct replacement).
UL 61010A–2–051 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment Mixing and Stirring.	Withdrawn and replaced	UL 61010–2–051 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–051: Particular Requirements for Laboratory Equipment for Mixing and Stirring.
UL 61010A–2–061 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.	Withdrawn and replaced	UL 61010–2–061 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–061: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.
UL 61010B–1 Electrical Measuring and Test Equipment; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.

TABLE 10—TEST STANDARDS OSHA IS REMOVING FROM THE SCOPE OF RECOGNITION OF UNDERWRITERS LABORATORY, INC.

Test standard(s) being removed	Reason for removal	Replacement test standard(s) (if applicable)
UL 61010A–2–020—Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment for Laboratory Centrifuges.	Standard withdrawn by Standards Organization.	UL 61010–2–020—Standard for Safety Requirements for Electrical Equipment for Laboratory Use; Part 2–020: Particular Requirements for Laboratory Centrifuges.
ANSI C37.44 Distribution Oil Cutouts and Fuse Links	Withdrawn	None.
IEEE C37.29 Low-Voltage AC Power Circuit Protectors Used in Enclosures.	Withdrawn	None.
IEEE C37.45 Distribution Enclosed Single-Pole Air Switches.	Withdrawn	None.
IEEE C37.52 Low-Voltage AC Power Circuit Protectors Used in Enclosures—Test Procedures.	Withdrawn	None.
UL 1093 Halogenated Agent Fire Extinguishers	Withdrawn	None.
UL 1244 Electrical and Electronic Measuring and Testing Equipment.	Withdrawn	None.
UL 1448 Electric Hedge Trimmers	Withdrawn and replaced	UL 60745–2–15 Particular Requirements for Hedge Trimmers.
ISA 60079–2 Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p".	Withdrawn and replaced	UL 60079–2 Explosive Atmospheres—Part 2: Protection by Pressurized Enclosures "p".
ISA 60079–5 Explosive Atmospheres—Part 5: Equipment Protection by Power Filling "q".	Withdrawn and replaced	UL 60079–5 Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling "q".
ISA 60079–18 Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".	Withdrawn and replaced	UL 60079–18 Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".
ISA 60079–26 Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.	Withdrawn and replaced	UL 60079–26 Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.
UL 745–1 Portable Electric Tools	Withdrawn	None.
UL 745–2–1 Particular Requirements of Drills	Withdrawn	None.
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives.	Withdrawn	None.
UL 745–2–17 Particular Requirements for Routers and Trimmers.	Withdrawn	None.
UL 745–2–36 Particular Requirements for Hand Motor Tools.	Withdrawn	None.
UL 745–2–37 Particular Requirements for Plate Jointers	Withdrawn	None.
UL 61010A–1 Electrical Equipment for Laboratory Use; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010A–2–010 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for the Heating of Materials.	Withdrawn and replaced	UL 61010–2–010 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.
UL 61010A–2–020 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Centrifuges.	Withdrawn and replaced	UL 61010–2–020 Electrical Equipment for Measurement, Control, and Laboratory Use—Part 2–020: Particular Requirements for Laboratory Centrifuges.
UL 61010A–2–041 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Autoclaves Using Steam for the Treatment of Medical Materials for Laboratory Purposes.	Withdrawn and replaced	UL 61010–1 (no direct replacement).
UL 61010A–2–051 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment Mixing and Stirring.	Withdrawn and replaced	UL 61010–2–051 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–051: Particular Requirements for Laboratory Equipment for Mixing and Stirring.
UL 61010A–2–061 Electrical Equipment for Laboratory Use: Part 2: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.	Withdrawn and replaced	UL 61010–2–061 Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–061: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.
UL 61010B–1 Electrical Measuring and Test Equipment; Part 1: General Requirements.	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 61010B–2–031 Electrical Equipment for Measurement, Control and Laboratory Use: Part 2: Particular Requirements for Hand-Held Probe Assemblies for Electrical Measurement and Test.	Withdrawn and replaced	UL 61010–1 (no direct replacement).
UL 61010C–1 Process Control Equipment	Withdrawn and replaced	UL 61010–1 Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.

OSHA will place on its informational web pages the modifications to each NRTL's scope of recognition. These web pages detail the scope of recognition for each NRTL, including the test standards the NRTL may use to test and certify products under OSHA's NRTL Program. OSHA also will add to the list of ''Appropriate Test Standards'' web page, those test standards added to the NRTL Program's List of Appropriate Test Standards. The agency will add to the ''Standards No Longer Recognized'' web page those test standards that OSHA no longer recognizes or permits under the NRTL Program. Access to these web pages is available at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

IV. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on March 19, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–06144 Filed 3–23–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2019–0009]

DEKRA Certification Inc.: Application for Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of DEKRA Certification, Inc., for recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant this recognition. Additionally, OSHA proposes to modify the NRTL Program's List of Appropriate Test Standards to add two additional test standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before April 23, 2020.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2019–0009, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2019–0009). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *https://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before April 23, 2020 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Many of OSHA's workplace standards require that a NRTL test and certify certain types of equipment as safe for use in the workplace. NRTLs are independent laboratories that meet OSHA's requirements for performing safety testing and certification of products used in the workplace. To obtain and retain OSHA recognition, the NRTLs must meet the requirements in the NRTL Program regulations at 29 CFR 1910.7. More specifically, to be recognized by OSHA, an organization must: (1) Have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of employers subject to the tested equipment requirements, and manufacturers and vendors of products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures. Recognition is an acknowledgement by OSHA that the NRTL has the capabilities to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition and is not a delegation or grant of government authority. Recognition of a NRTL by OSHA also allows employers to use products certified by that NRTL to meet those OSHA standards that require product testing and certification.

The agency processes applications for initial recognition following requirements in Appendix A of 29 CFR 1910.7. This appendix requires OSHA to publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the

application, provides its preliminary finding, and solicits comments on its preliminary findings. In the second notice, the agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition.

II. Notice of the Application for Recognition

OSHA is providing notice that DEKRA Certification, Inc., (DEKRA) is applying for recognition as a NRTL. According to its public information (see *https://www.dekra-product-safety.com/en/about-dekra*) DEKRA states that it is an internationally accredited testing laboratory. In its application, DEKRA lists the current address of its headquarters as: DEKRA Certification, Inc., 405 Glenn Drive, Suite 12, Sterling, Virginia 20164. OSHA has determined preliminarily that DEKRA has the capability to perform as a NRTL as outlined in 29 CFR 1910.7.

Each NRTL's scope of recognition has two elements: (1) The type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that have the technical capability to perform the product-testing and product-certification activities for the applicable test standards within the NRTL's scope of recognition. DEKRA applied on December 8, 2016, for one recognized site (OSHA–2019–0009–0002). This application was amended on October 4, 2018, to add a new site as the company headquarters and requesting five supplemental programs within its scope of recognition (OSHA–2019–0009–0003). This application was amended again on October 8, 2019 to request thirty-four test standards be included within its scope of recognition. On October 1, 2019, OSHA published an update to the NRTL Program Policies, Procedures and Guidelines Directive, CPL–01–004, which eliminates supplemental programs from the NRTL Program. With this update, OSHA will no longer recognize NRTL applicants for supplemental programs. The following sections set forth the requested scope of recognition included in DEKRA's application.

A. Standards Requested for Recognition

Table 1 below lists the appropriate test standards found within DEKRA's application for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN DEKRA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
AAMI 60601–1	Medical Electrical Equipment—Part 1: General Requirements for Basic Safety and Essential Performance.
UL 1012	Standard for Power Units Other Than Class 2.
UL 1059	Standard for Terminal Blocks.
UL 1203	Standard for Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations.
UL 121201	Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.
UL 1310	Standard for Class 2 Power Units.
UL 153	Standard for Portable Electric Luminaires.
UL 1598	Luminaires.
UL 1778	Uninterruptible Power Systems.
UL 2157	Electric Clothes Washing Machines and Extractors.
UL 50	Enclosures for Electrical Equipment, Non-Environmental Considerations.
UL 508A	Standard for Industrial Control Panels.
UL 60065	Standard for Audio, Video and Similar Electronic Apparatus—Safety Requirements.
UL 60079–0	Standard for Explosive Atmospheres—Part 0: Equipment—General Requirements.
UL 60079–1	Standard for Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures ''d''.
UL 60079–2	Standard for Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosure 'p'.
UL 60079–7	Standard for Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety 'e'.
UL 60079–11	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety ''i''.
UL 60079–15	Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection 'n'.
UL 60079–18	Standard for Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation 'm'.
UL 60079–26	Standard for Explosive Atmospheres—Part 26: Equipment with Equipment Protection Level (EPL) Gas.
UL 60079–30–1 *	Standard for Explosive Atmospheres—Part 30–1: Electrical Resistance Trace Heating—General and Testing Requirements.
UL 60079–31	Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection by Enclosure 't'.
UL 60730–1 *	Automatic Electrical Controls—Part 1: General Requirements.
UL 60730–2–9	Standard for Automatic Electrical Controls—Part 2–9: Particular Requirements for Temperature Sensing Controls.
UL 60950–1	Information Technology Equipment—Safety—Part 1: General Requirements.
UL 60950–22	Information Technology Equipment—Safety—Part 22: Equipment to be Installed Outdoors.
UL 61010–1	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 1: General Requirements.
UL 61058–1	Switches for Appliances—Part 1: General Requirement.
UL 62368–1	Audio/video, Information and Communication Technology Equipment—Part 1: Safety Requirements.
UL 858	Standard for Household Electric Ranges.
UL 858A	Safety-Related Solid-State Controls For Electric Ranges.
UL 8750	Standard for Light Emitting Diode (LED) Equipment for Use in Lighting Products.
UL 913	Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, III, Division 1, Hazardous (Classified) Locations.

* Represents the standards that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.

III. Proposal To Add New Test Standards to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL Program's list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by a NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) Monitoring notifications issued by certain Standards Development Organizations; (2) reviewing applications by NRTLs or applicants seeking recognition to include new test standard in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes to add two new test standards to the NRTL Program's list of appropriate test standards. Table 2, below, lists the test standards that are new to the NRTL Program. OSHA preliminarily determined that these test standards are appropriate test standards and proposes to include them in the NRTL Program's list of appropriate test standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—TEST STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 60079–30–1 *	Standard for Explosive Atmospheres—Part 30–1: Electrical Resistance Trace Heating—General and Testing Requirements.
UL 60730–1 *	Automatic Electrical Controls—Part 1: General Requirements.

The test standards listed above may be approved as U.S. test standards by the American National Standards Institute (ANSI). However, for convenience, the agency may use the designations of the standards-developing organization for the test standards instead of the ANSI designation. NRTL Program policy (see OSHA Instruction CPL 1–001–004, Chapter 2, Section VIII), establishes test standard approval criteria based on 29 CFR 1910.7(c).

B. Sites Requested for Recognition

The current addresses of the DEKRA's sites included in its application for recognition as a NRTL are:

1. DEKRA Certification, Inc., 405 Glenn Drive, Suite 12, Sterling, Virginia 20164; and

2. DEKRA Certification B.V. Arnhem, Meander 1051, 6825 MJ Arnhem, Gelderland, Netherlands.

The NRTL Program requires that to be a recognized site, the sites listed above must have the capability to conduct product testing in accordance with the appropriate test standard for the equipment or material being tested and certified.

IV. Preliminary Finding on the Application for Recognition as a NRTL

OSHA's NRTL Program recognition process involves a thorough analysis of a NRTL applicant's policies and procedures, and a comprehensive on-site review of the applicant's testing and certification activities to ensure that the applicant meets the requirements of 29 CFR 1910.7. OSHA staff performed a detailed analysis of DEKRA's application packet and reviewed other pertinent information. OSHA staff also performed comprehensive on-site assessments of DEKRA's testing facilities, at DEKRA Arnhem, Netherlands on July 11–13, 2018 and DEKRA Sterling, Virginia on October 30, 2018. An overview of OSHA's assessment of the four requirements for recognition (*i.e.,* capability, control procedures, independence, and credible reports and complaint handling) is provided below.

A. Capability

Section 1910.7(b)(1) states that, for each specified item of equipment or material to be listed, labeled, or accepted, the NRTL must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality-control programs) to perform appropriate testing. OSHA staff performed a detailed analysis of DEKRA's application packet and reviewed other pertinent information to assess its capabilities to perform testing and certification activities. OSHA preliminarily determined that DEKRA has demonstrated these capabilities through the following:

- DEKRA's facilities have adequate test areas, energy sources, and procedures for controlling incompatible activities.
- DEKRA provided a detailed list of its testing equipment. Review of the application shows that the equipment listed is available and adequate for the standards for which it seeks recognition.
- DEKRA has detailed procedures for conducting testing, review, and evaluation, and for capturing the test and other data required by the test standards for which it seeks recognition.
- DEKRA has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting laboratory activities.
- DEKRA has sufficient qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience.
- DEKRA has an adequate quality-control system in place to conduct internal audits, as well as track and resolve nonconformances.

OSHA's on-site assessments of DEKRA's facilities confirmed the capabilities described in its application packet. The assessors found some non-conformances with the requirements of 29 CFR 1910.7. DEKRA addressed these issues sufficiently to meet the applicable NRTL requirements.

B. Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide controls and services, to the extent necessary, for the particular equipment or material to be listed, labeled, or accepted. These controls and services include procedures for identifying the listed or labeled equipment or materials, inspections of production runs at factories to assure conformance with test standards, and field inspections to monitor and assure

the proper use of identifying marks or labels. OSHA staff performed a detailed analysis of DEKRA's application packet and reviewed other pertinent information to assess its control procedures. OSHA preliminarily determined that DEKRA has demonstrated these capabilities through the following:

- DEKRA has a quality-control manual and detailed procedures to address the steps involved to list and certify products.
- DEKRA has a registered certification mark.
- DEKRA has certification procedures to address the authorization of certifications and audits of factory facilities. The audits apply to both the initial evaluations and the follow-up inspections of manufacturers' facilities.

OSHA's on-site assessment of DEKRA's facilities confirmed the capabilities described in its application packet. The assessors found some non-conformances with the requirements of 29 CFR 1910.7. DEKRA addressed these issues sufficiently to meet the applicable NRTL requirements.

C. Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers that are subject to the testing requirements, and of any manufacturers or vendors of equipment or materials tested under the NRTL Program. The revised NRTL Program Policies, Procedures and Guidelines Directive, CPL 01–004–001, allows NRTLs to comply with the requirement in the NRTL Program regulation that NRTLs be ''completely independent of employers subject to the tested equipment requirements, and of any manufacturers or vendors of equipment or materials being tested for these purposes'' (29 CFR 1910.7(b)(3)) by meeting the minimum performance standards of Annex B of the NRTL Program directive CPL 01–004–001 with respect to impartiality. The revised policy focuses on the NRTL's ability to effectively identify, eliminate and control any risk to its impartiality.

This policy requires the NRTL to identify risks to impartiality on an ongoing basis and when risks to impartiality are identified, the NRTL must demonstrate how it eliminates or minimizes such risks. OSHA staff performed a detailed analysis of DEKRA's application packet and reviewed other pertinent information to assess its independence. OSHA preliminarily determined that DEKRA has demonstrated independence through the following:

- DEKRA is a privately-owned organization, and OSHA found no information regarding ownership that would qualify as a conflict under OSHA's independence policy.
- DEKRA shows that it has none of the relationships described in OSHA's independence policy or any other relationship that could subject it to undue influence when testing for product safety.
- DEKRA has policies and procedures in place to identify risks to impartiality and when risks to impartiality are found, DEKRA has policies and procedures to eliminate or minimize such risks.

D. Credible Reports and Complaint Handling

Section 1910.7(b)(4) specifies that a NRTL must maintain effective procedures for producing credible findings and reports that are objective and free of bias. The NRTL must also have procedures for handling complaints and disputes under a fair and reasonable system. OSHA staff performed a detailed analysis of DEKRA's application packet and reviewed other pertinent information to assess its ability to produce credible results and handle complaints. OSHA preliminarily determined that DEKRA has demonstrated these capabilities through the following:

- DEKRA has detailed procedures describing the content of test reports, and other detailed procedures describing the preparation and approval of these reports.
- DEKRA has procedures for recording, analyzing, and processing complaints from users, manufacturers, and other parties in a fair manner.

OSHA's on-site assessments of DEKRA's facilities confirmed the capabilities described in its application packet. The assessors found some non-conformances with the requirements of 29 CFR 1910.7. DEKRA addressed these issues sufficiently to meet the applicable NRTL requirements.

OSHA's review of the application file and pertinent documentation, as well as the results of the on-site assessments, indicate that DEKRA can meet the requirements prescribed by 29 CFR 1910.7 for recognition as a NRTL for its sites located in Sterling, Virginia and Arnhem, Netherlands.

OSHA's preliminary finding does not constitute an interim or temporary approval of DEKRA's application.

OSHA welcomes public comment as to whether DEKRA meets the requirements of 29 CFR 1910.7 for recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request, for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–3653, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2019–0009.

OSHA staff will review all comments submitted to the docket in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health regarding DEKRA's application for recognition as a NRTL. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of this final decision in the **Federal Register**.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on March 18, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–06083 Filed 3–23–20; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of March 23, 30, April 6, 13, 20, 27, 2020.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of March 23, 2020

There are no meetings scheduled for the week of March 23, 2020.

Week of March 30, 2020—Tentative

There are no meetings scheduled for the week of March 30, 2020.

Week of April 6, 2020—Tentative

There are no meetings scheduled for the week of April 6, 2020.

Week of April 13, 2020—Tentative

There are no meetings scheduled for the week of April 13, 2020.

Week of April 20, 2020—Tentative

There are no meetings scheduled for the week of April 20, 2020.

Week of April 27, 2020—Tentative

There are no meetings scheduled for the week of April 27, 2020.

ADDITIONAL INFORMATION: The Meeting on the Strategic Programmatic Overview of the Operating Reactors and New Reactors Business Lines scheduled for April 2, 2020, has been postponed.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated at Rockville, Maryland, this 19th day of March 2020.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–06206 Filed 3–20–20; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–133; NRC–2020–0081]

Pacific Gas and Electric Company; Humboldt Bay Power Plant, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a January 13, 2020, request from Pacific Gas and Electric Company (PG&E or the licensee). The exemption permits PG&E to reduce the minimum coverage limit for onsite property damage insurance from $63.16 million to $50 million for Humboldt Bay Power Plant, Unit 3.

ADDRESSES: Please refer to Docket ID NRC–2020–0081 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0081. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John B. Hickman, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3017, email: *john.hickman@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated at Rockville, Maryland, this 18th day of March 2020.

For the Nuclear Regulatory Commission.

Bruce A. Watson,

Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Exemption

Nuclear Regulatory Commission

Docket No. 50–133, Pacific Gas and Electric Company, Humboldt Bay Power Plant Unit No. 3, Exemption

I. Background

The Humboldt Bay Power Plant, Unit 3 (HBPP 3) facility is a decommissioning power reactor located in Humboldt County, California. Pacific Gas and Electric Company (PG&E) is the holder of HBPP 3 Facility Operating License No. DPR–7. On July 2, 1976, HBPP 3 was shut down for annual refueling and to conduct seismic modifications. In 1983, updated economic analyses indicated that restarting HBPP 3 probably would not be cost-effective, and on June 27, 1983, PG&E announced its intention to decommission the unit. In 1984, PG&E submitted the HBPP 3 SAFSTOR [Safe Storage] Decommissioning Plan in support of the application to amend the HBPP 3 operating license to a possession-only license. On July 16, 1985, the NRC issued Amendment No. 19 to the HBPP Unit 3 Operating License (Agencywide Documents Access and Management System (ADAMS) Legacy No. 507260040) to change the status to possess-but-not-operate, and the plant was placed into a SAFSTOR status. On December 11, 2008, PG&E completed the transfer of spent nuclear fuel (SNF) from the HBPP 3 spent fuel pool (SFP) into the Humboldt Bay Independent Spent Fuel Storage Installation (HB ISFSI). All Greater-Than-Class-C (GTCC) waste was transferred to the HB ISFSI in 2013. PG&E began decontamination and dismantlement of HBPP 3 in June 2009, and currently plans to terminate the 10 CFR part 50 license in 2021.

II. Request/Action

Pursuant to 10 CFR 50.12, ''Specific exemptions,'' PG&E has requested an exemption from 10 CFR 50.54(w)(1) by letter dated January 13, 2020 (ADAMS Accession No. ML20013G734). The

exemption from the requirements of 10 CFR 50.54(w)(1) would permit PG&E to reduce its onsite property damage insurance from $63.16 million to $50 million.

The regulation in 10 CFR 50.54(w)(1) requires each licensee to have and maintain onsite property damage insurance to stabilize and decontaminate the reactor and reactor site in the event of an accident. The onsite insurance coverage must be either $1.06 billion or whatever amount of insurance is generally available from private sources (whichever is less). The HBPP 3 site currently maintains $63.16 million in onsite insurance coverage in accordance with a previous exemption approved by the NRC on August 22, 1989 (54 FR 35738).

The licensee stated that the HBPP 3 reactor has been removed and all SNF and GTCC waste is stored in the onsite ISFSI. In addition, plant structures associated with reactor operations have been removed from the site. This results in a significant reduction in the potential for and severity of onsite property damage because, with the HBPP 3 reactor removed, there are no events that would require the stabilization of reactor conditions after an accident. Similarly, the risk of an accident that would result in significant onsite contamination at the HBPP 3 site is also much lower than the risk of such an event at an operating reactor. Therefore, PG&E requested an exemption from 10 CFR 50.54(w)(1) that would permit a reduction in its onsite property damage insurance from $63.16 million to $50 million, commensurate with the reduced risk of an accident at the decommissioned HBPP 3 reactor.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) any of the special circumstances listed in 10 CFR 50.12(a)(2) are present.

The financial protection limits of 10 CFR 50.54(w)(1) were established after the Three Mile Island accident out of concern that licensees may be unable to financially cover onsite cleanup costs in the event of a major nuclear accident. The specified coverage requirement was developed based on an analysis of an accident at a nuclear reactor operating at power, resulting in a large fission product release and requiring significant resource expenditures to stabilize the reactor conditions and ultimately decontaminate and clean up the site.

The NRC developed these cost estimates from the spectrum of postulated accidents for an operating nuclear reactor and the consequences of any associated release of radioactive material from the reactor. Although the risk of an accident at an operating reactor is very low, the consequences can be large. In an operating plant, the high temperature and pressure of the reactor coolant system, as well as the inventory of relatively short-lived radionuclides, contribute to both the risk and consequences of an accident. With the decommissioning of the reactor at HBPP 3, and the movement of all the irradiated fuel assemblies into storage at the onsite ISFSI, such accidents are no longer possible. The reactor, reactor coolant system, and supporting systems have already been dismantled and removed from the site as part of the decommissioning process. Therefore, these systems and components no longer serve any function related to the storage of irradiated fuel. As such, postulated accidents involving failure or malfunction of the reactor, reactor coolant system, or supporting systems are no longer applicable at HBPP 3.

During reactor decommissioning, the principal radiological risks are associated with the storage of spent fuel onsite, as well as the inventory of radioactive liquids, activated reactor components, and contaminated materials. In its January 13, 2020, exemption request, PG&E noted that all SNF and GTCC waste is stored at the HB ISFSI. Plant structures have been removed, and the site, including the remaining buildings, has been remediated for radioactive material. The licensee determined that the minimal radioactive material remaining at the site that resulted from HBPP 3's operation is insufficient for any potential event to result in exceeding dose limits or otherwise involving a significant adverse effect on public health and safety.

Specifically, there are no credible events at HBPP 3 that could result in a radiological release exceeding the limits established by the U.S. Environmental Protection Agency's (EPA's) early-phase Protective Action Guidelines (PAGs) of one roentgen equivalent man at the exclusion area boundary, which demonstrates that any possible radiological releases would be minimal and would not require precautionary protective actions (*e.g.,* sheltering in place or evacuation). The staff evaluated the radiological consequences associated with credible accident events at HBPP 3, in consideration of the permanently shutdown and decommissioned status of the facility. The possible accident scenarios at HBPP 3 have greatly reduced radiological consequences. Based on its review, the staff concluded that no reasonably conceivable radiological release event exists that could cause an offsite release greater than the EPA PAGs.

In addition, given that all of the irradiated fuel assemblies at HBPP 3 have already been moved into storage at the onsite ISFSI, the fuel is no longer thermal-hydraulically capable of sustaining a zirconium fire and can be air-cooled in all credible accident scenarios and fuel configurations. Since NRC approval of the previous exemption in 1989, which permitted HBPP 3 to reduce its onsite insurance coverage to $63.16 million, the NRC staff has authorized a lesser amount of onsite property damage insurance coverage based on an analysis of the zirconium fire risk. In SECY–96–256, ''Changes to Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w)(1) and 10 CFR 140.11,'' dated December 17, 1996 (ADAMS Accession No. ML15062A483), the NRC staff recommended changes to the power reactor insurance regulations that would allow licensees to lower onsite insurance levels to $50 million upon demonstration that the fuel stored in the spent fuel pool can be air-cooled.

In its Staff Requirements Memorandum to SECY–96–256, dated January 28, 1997 (ADAMS Accession No. ML15062A454), the Commission supported the staff's recommendation that, among other things, would allow permanently shutdown power reactor licensees to reduce commercial onsite property damage insurance coverage to $50 million when the licensee was able to demonstrate the technical criterion that the spent fuel could be air-cooled if the spent fuel pool was drained of water. The staff has used this technical criterion to grant similar exemptions to other decommissioning reactors (*e.g.,* Fort Calhoun Station, published in the **Federal Register** on April 6, 2018 (83 FR 14898); and La Crosse Boiling Water Reactor, published in the **Federal Register** on August 1, 2018 (83 FR 37532)). These prior exemptions were based on the licensees demonstrating that the spent fuel could be air-cooled, consistent with the technical criterion discussed above. Based on this criterion, the NRC staff determined $50 million to be an adequate level of onsite property damage insurance coverage for the HBPP 3 site, given that the spent fuel is

no longer susceptible to a zirconium fire.

In addition, the staff has postulated that there is still a potential for other radiological incidents at a decommissioning reactor that could result in significant onsite contamination besides a zirconium fire. In SECY–96–256, the NRC staff cited the rupture of a large contaminated liquid storage tank, causing soil contamination and potential groundwater contamination, as the most costly postulated event to decontaminate and remediate (other than a zirconium fire). The postulated large liquid radiological waste storage tank rupture event was determined to have a bounding onsite cleanup cost of approximately $50 million. However, decommissioning activities at HBPP 3 have progressed to such an extent that there are no longer any large radiological waste storage tanks onsite. The staff concludes that there are no radioactive material sources that could be released from the HBPP 3 site that would challenge the assumptions made in SECY–96–256 regarding the rupture of a large contaminated liquid storage tank. Therefore, the staff determined that the licensee's proposal to reduce onsite insurance to a level of $50 million would be consistent with the bounding cleanup and decontamination cost, as discussed in SECY–96–256.

A. The Exemption Is Authorized by Law

The regulation in 10 CFR 50.54(w)(1) requires each licensee to have and maintain onsite property damage insurance of either $1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less. In accordance with 10 CFR 50.12, the Commission may grant exemptions from the regulations in 10 CFR part 50, as the Commission determines are authorized by law.

In 1989, the Commission granted HBPP 3 an exemption from 10 CFR 50.54(w)(1), permitting the reduction of onsite insurance coverage from $100 million to $63.16 million. As explained above, the NRC staff has determined that the licensee's proposed reduction in onsite property damage insurance coverage to a level of $50 million is consistent with SECY–96–256 because there is no credible risk of a zirconium fire with all irradiated fuel stored in the onsite ISFSI, where it is air-cooled in all accident scenarios.

The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws. Therefore, based on its review of PG&E's exemption request, as discussed above, and consistent with SECY–96–256, the NRC staff concludes that the exemption is authorized by law.

B. The Exemption Presents No Undue Risk to Public Health and Safety

The onsite property damage insurance requirements of 10 CFR 50.54(w)(1) were established to provide financial assurance that following a significant nuclear accident, onsite reactor conditions could be stabilized and the site decontaminated. The existing level of onsite insurance coverage for HBPP 3 is predicated on the assumption that the reactor is permanently shutdown and defueled and the site is being actively decommissioned with significant residual activity remaining. However, the fully decommissioned status of the facility has resulted in a significant reduction in the number and severity of potential accidents, and correspondingly, a significant reduction in the potential for and severity of onsite property damage. The proposed reduction in the amount of onsite insurance coverage does not impact the probability or consequences of potential accidents. The proposed level of insurance coverage is commensurate with the reduced consequences of credible nuclear accidents at HBPP 3. Therefore, the NRC staff concludes that granting the requested exemption will not present an undue risk to the health and safety of the public.

C. The Exemption Is Consistent With the Common Defense and Security

The proposed exemption would not eliminate any requirements associated with physical protection of the site and would not adversely affect PG&E's ability to physically secure the site or protect special nuclear material. Physical security measures at HBPP 3 are not affected by the requested exemption. Therefore, the proposed exemption is consistent with the common defense and security.

D. Special Circumstances

Under 10 CFR 50.12(a)(2)(ii), special circumstances are present if the application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.54(w)(1) is to provide reasonable assurance that adequate funds will be available to stabilize reactor conditions and cover onsite cleanup costs associated with site decontamination, following an accident that results in the release of a significant amount of radiological material.

Because HBPP 3 is permanently shutdown and defueled, with all irradiated fuel assemblies stored in the onsite ISFSI, and decommissioning complete, it is no longer possible for the radiological consequences of design-basis accidents or other credible events at HBPP 3 to exceed the limits of the EPA PAGs at the exclusion area boundary. Therefore, the staff concludes that the application of the current requirements in 10 CFR 50.54(w)(1), as exempted, for PG&E to maintain $63.16 million in onsite insurance coverage is not necessary to achieve the underlying purpose of the rule for the permanently shutdown and defueled HBPP 3 facility.

Under 10 CFR 50.12(a)(2)(iii), special circumstances are present whenever compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.

The NRC staff concludes that if the licensee was required to continue to maintain an onsite insurance level of $63.16 million, the associated insurance premiums would be in excess of those necessary and commensurate with the radiological contamination risks posed by the site. In addition, such insurance levels would be significantly in excess of other decommissioning reactor facilities that have been granted similar exemptions by the NRC.

As such, the NRC staff finds that compliance with the existing requirement would result in an undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted and are significantly in excess of those incurred by others similarly situated. Therefore, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(iii) exist for the HBPP 3 facility.

E. Environmental Considerations

The NRC approval of an exemption to insurance or indemnity requirements belongs to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Specifically, the exemption is categorically excluded from further analysis under 10 CFR 51.22(c)(25).

Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of chapter I to 10 CFR

is a categorical exclusion provided that (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve: Surety, insurance, or indemnity requirements.

The Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards, has determined that approval of the exemption request involves no significant hazards consideration because reducing the licensee's onsite property damage insurance for HBPP 3 does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The exempted financial protection regulation is unrelated to the operation of HBPP 3. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; and no significant increase in individual or cumulative public or occupational radiation exposure.

The exempted regulation is not associated with construction, so there is no significant construction impact. The exempted regulation does not concern the source term (*i.e.,* potential amount of radiation in an accident), nor mitigation. Therefore, there is no significant increase in the potential for, or consequences of, a radiological accident. In addition, there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. The requirement for onsite property damage insurance involves surety, insurance, and indemnity matters. Therefore, pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

Accordingly, the NRC has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants PG&E an exemption from the requirements of 10 CFR 50.54(w)(1) to permit the licensee to reduce its onsite property damage insurance coverage at the HBPP 3 facility to a level of $50 million. The exemption is effective March 18, 2020.

Dated at Rockville, Maryland, this 18th day of March 2020.

For the Nuclear Regulatory Commission.

Patricia Holahan,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2020–06111 Filed 3–23–20; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC–2020–0078]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to section 189.a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. This biweekly notice includes all amendments issued, or proposed to be issued, from February 25, 2020, to March 9, 2020. The last biweekly notice was published on March 10, 2020.

DATES: Comments must be filed by April 23, 2020. A request for a hearing or petitions for leave to intervene must be filed by May 26, 2020.

ADDRESSES: You may submit comments by any of the following methods.

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0078. Address questions about NRC Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Paula Blechman, Office of Nuclear Reactor Regulation, telephone: 301–415–2242, email: *Paula.Blechman@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0078, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0078.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2020–0078, facility name, unit number(s), docket number(s), application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown below, the Commission finds that the licensee's analyses provided, consistent with title 10 of the *Code of Federal Regulations* (10 CFR) section 50.91, is sufficient to support the proposed determination that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination, any hearing will take place after issuance. The Commission expects that the need to take action on an amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/*. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then

any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when

the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The table below provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensee's proposed NSHC determination. For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Energy Harbor Nuclear Corp. (formerly FirstEnergy Nuclear Operating Company); Beaver Valley Power Station, Unit Nos. 1 and 2; Beaver County, PA

Application Date	February 11, 2020.
ADAMS Accession No	ML20043F441.
Location in Application of NSHC	Pages 20–23 of the Enclosure.
Brief Description of Amendments	The amendments propose changes to the organization, staffing, and training requirements contained in Technical Specification (TS) 5.0, ''Administrative Controls,'' and define two new positions for Certified Fuel Handler and Non-Certified Operator in TS 1.1, ''Definitions.'' The proposed amendments also support implementation of the First Energy Nuclear Operating Company Certified Fuel Handler Training and Retraining Program that was approved by the NRC by letter dated April 11, 2019 (ADAMS Accession No. ML19028A030).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Rick Giannantonio, General Counsel, Energy Harbor Corp., Mail Stop A–WAC–B3, 341 White Pont Drive, Akron, OH 44320.
Docket Nos	50–334, 50–412.
NRC Project Manager, Telephone Number.	Jennifer Tobin, 301–415–2328.

Exelon Generation Company, LLC; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Calvert County, MD

Application Date	December 12, 2019.
ADAMS Accession No	ML19347A779.
Location in Application of NSHC	Pages 4–5 of Attachment 1.
Brief Description of Amendments	The proposed amendments would permit loading up to two lead test assemblies of accident tolerant fuel for up to three cycles.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.
Docket Nos	50–317, 50–318.
NRC Project Manager, Telephone Number.	Michael L. Marshall, Jr., 301–415–2871.

Exelon Generation Company, LLC; Clinton Power Station, Unit No. 1; DeWitt County, IL

Application Date	January 14, 2020.
ADAMS Accession No	ML20014E719.
Location in Application of NSHC	Pages 13–15 of Attachment 1.
Brief Description of Amendments	The proposed amendment would implement the use of an automatic load tap changer on the emergency reserve auxiliary transformer that provides offsite power to Clinton Power Station, Unit 1.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.
Docket Nos	50–461.
NRC Project Manager, Telephone Number.	Joel Wiebe, 301–415–6606.

Florida Power & Light Company, et al; St. Lucie Plant, Unit No. 2; St. Lucie County, FL

Application Date	October 9, 2019.
ADAMS Accession No	ML19282D338.
Location in Application of NSHC	Pages 8–9 of the Enclosure.
Brief Description of Amendments	The proposed amendment would modify the St. Lucie Plant, Unit No. 2, Technical Specifications by revising the Reactor Coolant Pump Flywheel Inspection Program requirements consistent with the conclusions and limitations specified in the NRC safety evaluation regarding acceptance for referencing of Topical Report SIR–94–080, ''Relaxation of Reactor Coolant Pump Flywheel Inspection Requirements,'' dated May 21, 1997.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Debbie Hendell, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd., MS LAW/JB, Juno Beach, FL 33408–0420.
Docket Nos	50–389.

NRC Project Manager, Telephone Number.	Natreon Jordan, 301–415–7410.

Florida Power & Light Company, et al; St. Lucie Plant, Unit Nos. 1 and 2; St. Lucie County, FL

Application Date	September 30, 2019.
ADAMS Accession No	ML19275G789.
Location in Application of NSHC	Pages 6–7 of Attachment 1.
Brief Description of Amendments	The proposed amendments would revise the emergency plan for St. Lucie Plant, Unit Nos. 1 and 2 (St. Lucie), to adopt the Nuclear Energy Institute (NEI's) revised emergency action level (EAL) scheme described in NRC-endorsed NEI 99–01, Revision 6, ''Development of Emergency Action Levels for Non-Passive Reactors.'' St. Lucie currently uses an EAL scheme based on NEI 99–01, Revision 5.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Debbie Hendell, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd., MS LAW/JB, Juno Beach, FL 33408–0420.
Docket Nos.	50–335, 50–389.
NRC Project Manager, Telephone Number.	Natreon Jordan, 301–415–7410.

NextEra Energy Seabrook, LLC; Seabrook Station, Unit No. 1; Rockingham County, NH

Application Date	January 24, 2020.
ADAMS Accession No	ML20027A239.
Location in Application of NSHC	Pages 7–8 of the Enclosure.
Brief Description of Amendments	The proposed amendment would revise the degraded voltage time delay setpoint. Specifically, the proposed amendment would decrease the trip setpoint and allowable value for the 4.16 kilovolt Bus 5 and Bus 6 degraded voltage time delay relays listed in Technical Specification Table 3.3–4.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Debbie Hendell, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd., MS LAW/JB, Juno Beach, FL 33408–0420.
Docket Nos	50–443.
NRC Project Manager, Telephone Number.	Justin Poole, 301–415–2048.

Northern States Power Company—Minnesota; Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2; Goodhue County, MN

Application Date	January 29, 2020.
ADAMS Accession No	ML20029D693.
Location in Application of NSHC	Pages 8–9 of the Enclosure.
Brief Description of Amendments	The proposed change revises Technical Specification 3.2.1, ''Heat Flux Hot Channel Factor ($F_Q(Z)$),'' and Technical Specification 5.6.5, ''CORE OPERATING LIMITS REPORT (COLR),'' consistent with Appendix A of Westinghouse WCAP–17661–P–A, Revision 1, ''Improved RAOC [Relaxed Axial Offset Control] and CAOC [Constant Axial Offset Control] F_Q Surveillance Technical Specifications,'' to address the issues identified in Westinghouse Nuclear Safety Advisory Letter (NSAL) NSAL–09–5, Revision 1, ''Relaxed Axial Offset Control F_Q Technical Specification Actions.'' The proposed amendments will also address issues identified in NSAL–15–1, ''Heat Flux Hot Channel Factor Technical Specification Surveillance.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Peter M. Glass, Assistant General Counsel, Xcel Energy, 414 Nicollet Mall—401–8, Minneapolis, MN 55401.
Docket Nos	50–282, 50–306.
NRC Project Manager, Telephone Number.	Robert Kuntz, 301–415–3733.

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Unit 3; Burke County, GA, Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Unit 4; Burke County, GA

Application Date	February 28, 2020.
ADAMS Accession No	ML20059N597.
Location in Application of NSHC	Pages 11–13 of Enclosure 1.
Brief Description of Amendments	The proposed changes revise the following Vogtle Electric Generating Plant, Units 3 and 4 Combined License Appendix A, Technical Specifications (TS): (A) Frequency of Surveillance Requirement (SR) 3.7.6.3 for the Main Control Room Emergency Habitability System (VES) operation and deletes SR 3.7.6.9, which verifies the self-contained pressure regulating valve in each VES air delivery flow path is operable in accordance with the Inservice Testing Program; (B) SR 3.3.8.2 (Channel Calibration) and SR 3.3.8.3 (Engineered Safety Feature [ESF] Response Time) to include a Note excluding neutron detectors; (C) TS 5.5.3, ''Inservice Testing Program,'' to replace existing detail with reference to fulfilling the requirements of 10 CFR 50.55a(f); (D) TS 5.5.9, ''System Level OPERABILITY Testing Program,'' for appropriate wording consistency and appropriate reference to the Updated Final Safety Analysis Report; and (E) TS 3.4.9, ''RCS [Reactor Coolant System] Leakage Detection Instrumentation'' Applicability Note 2 to consistently identify the applicable power level.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.
Docket Nos	52–025, 52–026.
NRC Project Manager, Telephone Number.	Jennivine Rankin, 301–415–1530.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action, see (1) the application for amendment; (2) the amendment; and (3) the Commission's related letter, Safety Evaluation, and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Arizona Public Service Company, et al; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Maricopa County, AZ

Date Issued	March 4, 2020.
ADAMS Accession No	ML20031C947.
Amendment Nos	212 (Unit 1), 212 (Unit 2), and 212 (Unit 3).
Brief Description of Amendments	The amendments revised the Technical Specifications (TSs) for Palo Verde Nuclear Generating Station, Units 1, 2, and 3 (Palo Verde), to support the implementation of Framatome Advanced Combustion Engineering 16x16 High Thermal Performance fuel design with M5® as a fuel rod cladding material and gadolinia as a burnable absorber. In addition to these amendments, the NRC issued an exemption from certain requirements of 10 CFR 50.46, ''Acceptance criteria for emergency core cooling systems [(ECCS)] for light-water nuclear power reactors,'' and 10 CFR Part 50, Appendix K, ''ECCS Evaluation Models,'' to allow the use of Framatome M5® alloy as a fuel rod cladding material. These amendments adopted the approved Palo Verde reload analysis methodology to address both Westinghouse and Framatome fuel, including the implementation of Framatome methodologies, parameters, and correlations. The ability to use either Westinghouse or Framatome fuel ensures security of the Palo Verde fuel supply by providing for multiple fuel vendors with reliable fuel designs and geographically diverse manufacturing facilities.
Docket Nos	50–528, 50–529, 50–530.

Exelon Generation Company, LLC; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Calvert County, MD

Date Issued	February 28, 2020.
ADAMS Accession No	ML19330D909.
Amendment Nos	332 (Unit 1) and 310 (Unit 2).
Brief Description of Amendments	The amendments allowed the implementation of a risk-informed process for the categorization and treatment of structures, systems, and components at Calvert Cliffs, Units 1 and 2.
Docket Nos	50–317, 50–318.

Exelon Generation Company, LLC; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Calvert County, MD

Date Issued	February 28, 2020.
ADAMS Accession No	ML19337D035.
Amendment Nos	333 (Unit 1) and 311 (Unit 2).
Brief Description of Amendments	The amendments revised technical specification requirements relating to reactor coolant system activity limits. Specifically, the technical specification limits on reactor coolant system gross specific activity are based on a new dose equivalent xenon-133 definition that replaced the current E-Bar average disintegration energy definition, and the dose equivalent iodine-131 definition was revised to allow the use of committed effective dose equivalent dose conversion factors.
Docket Nos	50–317, 50–318.

Exelon Generation Company, LLC; Limerick Generating Station, Units 1 and 2; Montgomery County, PA

Date Issued	February 28, 2020.
ADAMS Accession No	ML20034F637.
Amendment Nos	240 (Unit 1) and 203 (Unit 2).
Brief Description of Amendments	The amendments revised technical specification requirements to permit the use of risk-informed completion times for actions to be taken when limiting conditions for operation are not met. The changes are based on Technical Specifications Task Force Traveler, TSTF–505, Revision 2, ''Provide Risk-Informed Extended Completion Times—RITSTF Initiative 4b.''
Docket Nos	50–352, 50–353.

FirstEnergy Nuclear Operating Company; Beaver Valley Power Station, Unit Nos. 1 and 2; Beaver County, PA; Davis-Besse Nuclear Power Station, Unit 1; Ottawa County, OH; Perry Nuclear Power Plant, Unit 1; Lake County, OH

Date Issued	February 27, 2020.
ADAMS Accession No	ML20030A440.

Amendment Nos	304 (Beaver Valley No. 1); 194 (Beaver Valley No. 2); 299 (Davis Besse); and 187 (Perry).
Brief Description of Amendments	The conforming amendments revised Renewed Facility Operating License (FOL) Nos. DPR–66 and NPF–73 for Beaver Valley, Unit Nos. 1 and 2; Renewed FOL No. NPF–3 for Davis Besse, Unit No. 1; and FOL No. NPF 58 for Perry, Unit No. 1, and the general license for the Independent Spent Fuel Storage Installation at each site to reflect the direct transfer of ownership of the facilities from FirstEnergy Nuclear Operating Company and FirstEnergy Nuclear Generation, LLC to Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; and the indirect transfer of ownership of the facilities from FirstEnergy Corp. to Energy Harbor Corp.
Docket Nos	50–440, 50–412, 50–334, 50–346, 72–014, 72–069, 72–1043.

PSEG Nuclear LLC; Hope Creek Generating Station; Salem County, NJ, PSEG Nuclear LLC; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Salem County, NJ

Date Issued	February 27, 2020.
ADAMS Accession No	ML20034E617.
Amendment Nos	222 (Hope Creek); 333 (Salem, Unit No. 1); and 314 (Salem, Unit No. 2).
Brief Description of Amendments	The amendments revised the operating licenses to delete certain license conditions that impose specific requirements on the decommissioning trust agreement on the basis that upon approval of the amendments, the provisions of 10 CFR 50.75(h) that specify the regulatory requirements for decommissioning trust funds would apply to PSEG Nuclear LLC. The amendments also removed legacy financial requirements associated with the license transfer from PSE&G to PSEG Nuclear LLC relative to maintaining available funding for an extended shutdown.
Docket Nos	50–354, 50–272, 50–311.

Tennessee Valley Authority; Watts Bar Nuclear Plant, Unit 2; Rhea County, TN

Date Issued	February 24, 2020.
ADAMS Accession No	ML20024F835.
Amendment Nos	35.
Brief Description of Amendments	The amendment revised the Watts Bar Nuclear Plant, Unit 2 Technical Specification 3.7.8, ''Essential Raw Cooling Water (ERCW) System,'' to extend the completion time to restore one train of ERCW to operable status from 72 hours to 7 days, on a one-time basis.
Docket Nos	50–391.

Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Date Issued	February 28, 2020.
ADAMS Accession No	ML20028F733.
Amendment Nos	132 (Unit 1), 36 (Unit 2).
Brief Description of Amendments	The amendments revised the Technical Specifications (TSs) by the adoption, with administrative and technical variations, of Technical Specifications Task Force (TSTF) Traveler TSTF–425, Revision 3, ''Relocate Surveillance Frequencies to Licensee Control—Risk Informed Technical Specification Task Force (RITSTF) Initiative 5b.'' Additionally, the change added a new program, the Surveillance Frequency Control Program, to TS Section 5.0, ''Administrative Controls.''
Docket Nos	50–390, 50–391.

Union Electric Company; Callaway Plant, Unit No. 1; Callaway County, MO

Date Issued	March 5, 2020.
ADAMS Accession No	ML20029E406.
Amendment Nos	222.
Brief Description of Amendments	The amendment deleted Callaway Plant, Unit No. 1 Technical Specification (TS) 5.5.8, ''Inservice Testing Program,'' and added a new defined term, ''INSERVICE TESTING PROGRAM,'' to the TSs to make the TSs consistent with Technical Specifications Task Force (TSTF) Standard Technical Specifications Change Traveler TSTF–545, Revision 3, ''TS Inservice Testing Program Removal & Clarify SR [Surveillance Requirement] Usage Rule Application to Section 5.5 Testing.''
Docket Nos	50–483.

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS

Date Issued	February 27, 2020.
ADAMS Accession No	ML19353C500.
Amendment Nos	224.
Brief Description of Amendments	The amendment revised Surveillance Requirement 3.3.5.3 in Technical Specification 3.3.5, ''Loss of Power (LOP) Diesel Generator (DG) Start Instrumentation,'' regarding the degraded voltage and loss of voltage relays' Allowable Values, nominal Trip Setpoints, and time delays based on analysis utilizing the guidance in Regulatory Issue Summary 2011-12, Revision 1, ''Adequacy of Station Electrical Distribution System Voltages,'' dated December 29, 2011 (ADAMS Accession No. ML113050583).
Docket Nos	50–482.

Dated at Rockville, Maryland, this 13th day of March 2020.

For the Nuclear Regulatory Commission.

Mohamed K. Shams,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–05691 Filed 3–23–20; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–102 and CP2020–107]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 26, 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

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–102 and CP2020–107; *Filing Title:* USPS Request to Add Parcel Return Service Contract 17 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 18, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* March 26, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–06141 Filed 3–23–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—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:* March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Sean C. 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 March 18, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Parcel Return Service Contract 17 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–102, CP2020–107.

Sean C. Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–06106 Filed 3–23–20; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Application and Claim for Unemployment Benefits and Employment Service; OMB 3220–0022.

Section 2 of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. 231), provides unemployment benefits for qualified railroad employees. These benefits are generally payable for each day of unemployment in excess of four during a registration period (normally a period of 14 days).

Section 12 of the RUIA provides that the RRB establish, maintain and operate free employment facilities directed toward the reemployment of railroad employees. The procedures for applying for the unemployment benefits and employment service and for registering

[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).

and claiming the benefits are prescribed in 20 CFR 325. 20 CFR 321 provides for applying and filing claims for unemployment benefits electronically.

The RRB utilizes the following forms to collect the information necessary to pay unemployment benefits. Form UI–1 (or its internet equivalent, Form UI–1 (internet)), *Application for Unemployment Benefits and Employment Service,* is completed by a claimant for unemployment benefits once in a benefit year, at the time of first registration. Completion of Form UI–1 or UI–1 (internet) also registers an unemployment claimant for the RRB's employment service.

The RRB also utilizes Form UI–3 (or its internet equivalent Form UI–3 (internet)), *Claim for Unemployment Benefits,* for use in claiming unemployment benefits for days of unemployment in a particular registration period, normally a period of 14 days.

Completion of Forms UI–1, UI–1(internet), UI–3, and UI–3 (internet) is required to obtain or retain benefits. The number of responses required of each claimant varies, depending on their period of unemployment. The RRB proposes no changes to the forms in this information collection.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI–1	6,654	10	1,109
UI–1 (Internet)	4,357	10	726
UI–3	27,815	6	2,782
UI–3 (Internet)	42,836	6	4,284
Total	81,662	.....	8,901

2. Title and purpose of information collection: RUIA Investigations and Continuing Entitlement; OMB 3220–0025.

Under Section 1(k) of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. 231), unemployment and sickness benefits are not payable for any day remuneration is payable or accrues to the claimant. Also, Section 4(a–1) of the RUIA provides that unemployment or sickness benefits are not payable for any day the claimant receives the same benefits under any law other than the RUIA. Under Railroad Retirement Board (RRB) regulation 20 CFR 322.4(a), a claimant's certification or statement on an RRB-provided claim form, that he or she did not work on any day claimed and did not receive income such as vacation pay or pay for time lost, shall constitute sufficient evidence unless there is conflicting evidence. Further, under 20 CFR 322.4(b), when there is a question raised as to whether or not remuneration is payable or has accrued to a claimant with respect to a claimed day(s), an investigation shall be made with a view to obtaining information sufficient for a finding. The RRB utilizes the following three forms to obtain information from railroad employers, nonrailroad employers, and claimants, that is needed to determine whether a claimed day(s) of unemployment or sickness were improperly or fraudulently claimed: Form ID–5i, Request for Employment Information; Form ID–5R (SUP), Report of Employees Paid RUIA Benefits for Every Day in Month Reported as Month of Creditable Service; and Form UI–48, Statement Regarding Benefits Claimed for Days Worked. Completion is voluntary. One response is requested of each respondent.

To qualify for unemployment or sickness benefits payable under Section 2 of the Railroad Unemployment Insurance Act (RUIA), a railroad employee must have certain qualifying earnings in the applicable base year. In addition, to qualify for *extended* or *accelerated* benefits under Section 2 of the RUIA, a railroad employee who has exhausted his or her rights to normal benefits must have at least 10 years of railroad service (under certain conditions, military service may be credited as months of railroad service). Accelerated benefits are unemployment or sickness benefits that are payable to a railroad employee before the regular July 1 beginning date of a benefit year if an employee has 10 or more years of service and is *not* qualified for benefits in the current benefit year.

During the RUIA claims review process, the RRB may determine that unemployment or sickness benefits cannot be awarded because RRB records show insufficient qualifying service and/or compensation. When this occurs, the RRB allows the claimant the opportunity to provide additional information if they believe that the RRB service and compensation records are incorrect.

Depending on the circumstances, the RRB provides the following forms to obtain information needed to determine if a claimant has sufficient service or compensation to qualify for unemployment or sickness benefits. Form UI–9, *Statement of Employment and Wages;* Form UI–44, *Claim for Credit for Military Service;* Form ID–4U, *Advising of Service/Earnings Requirements for Unemployment Benefits;* and Form ID–4X, *Advising of Service/Earnings Requirements for Sickness Benefits.* Completion of these forms is required to obtain or retain a benefit. One response is required of each respondent. The RRB proposes the following change to all forms, except ID–5R (SUP):

- Change PRA/PA notice to update the officer title and
- update RRB zip code.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI–9	69	10	11
UI–44	10	5	1
UI–48	14	12	3
ID–4U	35	5	3
ID–4X	25	5	2

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

Form No.	Annual responses	Time (minutes)	Burden (hours)
ID–5i	1,050	15	262
ID–5R (SUP)	400	10	67
Total	1,603	.....	349

3. Title and purpose of information collection: Public Service Pension Questionnaires; OMB 3220–0136.

Public Law 95–216 amended the Social Security Act of 1977 by providing, in part, that spouse or survivor benefits may be reduced when the beneficiary is in receipt of a pension based on employment with a Federal, State, or local governmental unit. Initially, the reduction was equal to the full amount of the government pension. Public Law 98–21 changed the reduction to two-thirds of the amount of the government pension.

Public Law 108–203 amended the Social Security Act by changing the requirement for exemption to a public service offset, so that Federal Insurance Contributions Act (FICA) taxes are deducted from the public service wages for the last 60 months of public service employment, rather than just the last day of public service employment.

Sections 4(a)(1) and 4(f)(1) of the Railroad Retirement Act (RRA) (45 U.S.C. 231) provides that a spouse or survivor annuity should be equal in amount to what the annuitant would receive if entitled to a like benefit from the Social Security Administration. Therefore, the public service pension (PSP) provisions apply to RRA annuities. RRB regulations pertaining to the collection of evidence relating to public service pensions or worker's compensation paid to spouse or survivor applicants or annuitants are prescribed in 20 CFR 219.64c.

The RRB utilizes Form G–208, Public Service Pension Questionnaire, and Form G–212, Public Service Monitoring Questionnaire, to obtain information used to determine whether an annuity reduction is in order. Completion of the forms is voluntary. However, failure to complete the forms could result in the nonpayment of benefits. One response is requested of each respondent. The RRB proposes no changes to the forms in the collection.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–208	70	16	19
G–212	1,100	15	275
Total	1,170	.....	294

4. Title and purpose of information collection: Report of Medicaid State Office on Beneficiary's Buy-In Status; OMB 3220–0185.

Under Section 7(d) of the Railroad Retirement Act (45 U.S.C. 231), the RRB administers the Medicare program for persons covered by the railroad retirement system. Under Section 1843 of the Social Security Act, states may enter into ''buy-in agreements'' with the Secretary of Health and Human Services for the purpose of enrolling certain groups of low-income individuals under the Medicare medical insurance (Part B) program and paying the premiums for their insurance coverage. Generally, these individuals are categorically needy under Medicaid and meet the eligibility requirements for Medicare Part B. States can also include in their buy-in agreements, individuals who are eligible for medical assistance only. The RRB utilizes Form RL–380–F, *Report of Medicaid State Office on Beneficiary's Buy-In Status,* to obtain information needed to determine if certain railroad beneficiaries are entitled to receive Supplementary Medical Insurance program coverage under a state buy-in agreement in the states in which they reside. Completion of Form RL–380–F is voluntary. One response is received from each respondent. The RRB proposes the following changes to Form RL–380–F:

- Remove the word ''claim'' from the second box on the right side and
- remove the word ''claim'' and replaced with ''Medicare'' for question 4.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
RL–380–F	600	10	100

5. Title and purpose of information collection: Self-Employment/Corporate Officer Work and Earnings Monitoring; OMB 3220–0202.

Section 2 of the Railroad Retirement Act (RRA) (45 U.S.C. 231) provides for the payment of disability annuities to qualified employees. Section 2 also provides that if the Railroad Retirement Board (RRB) receives a report of an annuitant working for a railroad or earning more than prescribed dollar amounts from either nonrailroad employment or self-employment, the annuity is no longer payable, or can be reduced, for the months worked. The regulations related to the nonpayment or reduction of the annuity by reason of work are prescribed in 20 CFR 220.160–164.

Some activities claimed by the applicant as ''self-employment'' may actually be employment for someone else (*e.g.,* training officer, consultant, salesman). 20 CFR 216.22(c) states, for example, that an applicant is considered an employee, and not self-employed, when acting as a corporate officer, since the corporation is the applicant's employer. Whether the RRB classifies a particular activity as self-employment or as work for an employer depends upon the circumstances in each case. The circumstances are prescribed in 20 CFR 216.21–216–23.

Certain types of work may actually indicate an annuitant's recovery from disability. Regulations related to an annuitant's recovery from disability for work are prescribed in 20 CFR 220.17–220–20.

In addition, the RRB conducts continuing disability reviews (also known as a CDR), to determine whether the annuitant continues to meet the disability requirements of the law. Payment of disability benefits and/or a beneficiary's period of disability will end if medical evidence or other information shows that an annuitant is not disabled under the standards prescribed in Section 2 of the RRA. Continuing disability reviews are generally conducted if one or more of the following conditions are met: (1) The annuitant is scheduled for a routine periodic review, (2) the annuitant returns to work and successfully completes a trial work period, (3) substantial earnings are posted to the annuitant's wage record, or (4) information is received from the annuitant or a reliable source that the annuitant has recovered or returned to work. Provisions relating to when and how often the RRB conducts disability reviews are prescribed in 20 CFR 220.186.

To enhance program integrity activities, the RRB utilizes Form G–252, *Self-Employment/Corporate Officer Work and Earnings Monitoring.* Form G–252 obtains information from a disability annuitant who either claims to be self-employed or a corporate officer, or who the RRB determines to be self-employed or a corporate officer after a continuing disability review. The continuing disability review may be prompted by a report of work, return to railroad service, an allegation of a medical improvement or a routine disability review call-up. The information gathered is used to determine entitlement and/or continued entitlement to, and the amount of, the disability annuity, as prescribed in 20 CFR 220.176. Completion is required to retain benefits. One response is required of each respondent. The RRB proposes no changes to Form G–252.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–252	100	20	33
Total	100		33

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Kennisha Tucker at (312) 469–2591 or *Kennisha.Tucker@rrb.gov.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to *Brian.Foster@rrb.gov.* Written comments should be received within 60 days of this notice.

Brian Foster,

Clearance Officer.

[FR Doc. 2020–06087 Filed 3–23–20; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88407; File No. SR–NYSEAMER–2020–20]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.12E Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt

March 18, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 16, 2020, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.12E concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.12E concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 7.12E provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker mechanism (''MWCB'') under Rule 7.12E was approved by the Commission to operate on a pilot basis,[4] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan.[6] In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[7] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 7.12E to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[8] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[9]

The market-wide circuit breaker under Rule 7.12E provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[10] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 7.12E, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 market decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day. On the next trading day, all NYSE Group exchanges (*i.e.,* the Exchange, New York Stock Exchange (''NYSE''), NYSE Arca, Inc. (''NYSE Arca''), NYSE National, Inc., and NYSE Chicago, Inc.) would remain closed for all symbols until 9:30 a.m. ET, at which time the Exchange, NYSE, and NYSE Arca would begin their Core Open Auction processes for their primary-listed securities.

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[11]

As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[12] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Early Trading Session at 7:00 a.m. ET,[13] regardless of whether the primary listing markets for those securities have actually opened.

To effect this change, the Exchange proposes to delete the language in Rule 7.12E(b)(ii) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that the Exchange will halt trading for the remainder of the trading day. The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Early Trading Session at 7:00 a.m. ET under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSEAmex–2011–73).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSEAmex–2011–71) (Approval Order); and 68787 (January 31, 2013), 78 FR 8615 (February 6, 2013) (SR–NYSEMKT–2013–08) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Delaying the Operative Date of a Rule Change to Exchange Rule 80B-Equities).

[7] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[8] *See* Securities Exchange Act Release No. 85564 (April 9, 2019), 84 FR 15269 (April 15, 2019) (SR–NYSEAMER–2019–14).

[9] *See* Securities Exchange Act Release No. 87025 (September 19, 2019), 84 FR 50527 (September 25, 2019) (SR–NYSEAMER–2019–37).

[10] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[11] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. ET (for CFE and CME) or at 8:00 p.m. ET (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. ET (CFE and CME) or 8:00 p.m. ET (ICE) the same day as the Level 3 halt.

[12] The Exchange anticipates that the other national securities exchanges and FINRA will also file similar proposals to amend their MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally.

[13] Early Trading Session means the trading session that begins at 7:00 a.m. and continues until 9:30 a.m. *See* Rule 7.34E(a)(1).

of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that resuming trading in the normal course in all equity securities will be more beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the various exchanges' early trading sessions, which do not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by resuming trading in the early trading sessions in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the various exchanges at the beginning of their early trading sessions in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

The Exchange will announce the implementation date of the amendment to Rule 7.12E(b)(ii) by Trader Update.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 7.12E is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 market decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks.

Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 7.12E with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

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 because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it approved a substantively similarly proposed rule change submitted by The Nasdaq Stock Market LLC.[21] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[22]

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–03).

[22] 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).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2020–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2020–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2020–20 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06101 Filed 3–23–20; 8:45 am]

BILLING CODE 8011–01–P

[23] 15 U.S.C. 78s(b)(2)(B).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88410; File No. SR–NYSECHX–2020–08]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.12 Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt

March 18, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 16, 2020, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.12 concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 amend Rule 7.12 concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 7.12 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker mechanism (''MWCB'') under Rule 7.12 was approved by the Commission to operate on a pilot basis,[4] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan.[6] In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–CHX–2011–30) (approving amendments to Article 20, Rule 2). Rule 7.12 replaced Article 20, Rule 2 without any substantive differences. *See* Securities Exchange Act Release No. 87264 (October 9, 2019), 84 FR 55345 (October 16, 2019) (SR–NYSECHX–2019–08).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–CHX–2011–30) (Approval Order); and 68777 (January 31, 2013), 78 FR 8673 (February 6, 2013) (SR–CHX–2013–02) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Delaying the Operative Date of a Rule Change to CHX Article 20, Rule 2).

permanent, rather than pilot, basis.[7] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 7.12 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[8] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[9]

The market-wide circuit breaker under Rule 7.12 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[10] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 7.12, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 market decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day. On the next trading day, all NYSE Group exchanges (*i.e.,* the Exchange, New York Stock Exchange (''NYSE''), NYSE American, Inc. (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), and NYSE National, Inc.) would remain closed for all symbols until 9:30 a.m. ET, at which time NYSE, NYSE American, and NYSE Arca would begin their Core Open Auction processes for their primary-listed securities.

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[11]

As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[12] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Early Trading Session at 7:00 a.m. ET,[13] regardless of whether the primary listing markets for those securities have actually opened.

To effect this change, the Exchange proposes to delete the language in Rule 7.12(b)(ii) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that the Exchange will halt trading for the remainder of the trading day. The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Early Trading Session at 7:00 a.m. ET under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that resuming trading in the normal course in all equity securities will be more beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the various exchanges' early trading sessions, which do not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by resuming trading in the early trading sessions in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the various exchanges at the beginning of their early trading sessions in all NMS Stocks will allow for price formation to occur earlier in the trading

[7] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[8] *See* Securities Exchange Act Release No. 85565 (April 9, 2019), 84 FR 15239 (April 15, 2019) (SR–NYSECHX–2019–05).

[9] *See* Securities Exchange Act Release No. 87027 (September 19, 2019), 84 FR 50484 (September 25, 2019) (SR–NYSECHX–2019–09).

[10] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[11] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. ET (for CFE and CME) or at 8:00 p.m. ET (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. ET (CFE and CME) or 8:00 p.m. ET (ICE) the same day as the Level 3 halt.

[12] The Exchange anticipates that the other national securities exchanges and FINRA will also file similar proposals to amend their MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally.

[13] Early Trading Session means the trading session that begins at 7:00 a.m. ET and continues until 9:30 a.m. ET. *See* Rule 7.34(a)(1).

day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

The Exchange will announce the implementation date of the amendment to Rule 7.12(b)(ii) by Trader Update.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 7.12 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 market decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks.

Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 7.12 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

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 because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it approved a substantively similarly proposed rule change submitted by The Nasdaq Stock Market LLC.[21] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[22]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSECHX–2020–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSECHX–2020–08. This file number should be included on the subject line if email is used. To help the Commission process and review your

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–03).

[22] 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).

[23] 15 U.S.C. 78s(b)(2)(B).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSECHX–2020–08 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06102 Filed 3–23–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88420; File No. SR–CboeEDGX–2020–012]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.16(b)(2) Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt and Make Corresponding Changes to Rule 11.7(e)

March 18, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2020, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 amend Rule 11.16(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt and make corresponding changes to Rule 11.7(e).

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.16(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt and to amend Rule 11.7(e) to make corresponding changes to the re-opening process after a halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 11.16 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker mechanism (''MWCB'') under Rule 11.16 was approved by the Commission to operate on a pilot basis,[5] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[6] including any extensions to the pilot period for the LULD Plan.[7] The Commission recently approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[8] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 11.16 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[9] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[10] The market-wide circuit breaker under Rule 11.16 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[11] Market-wide circuit

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–EDGX–2011–30).

[6] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[7] See Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–EDGX–2011–30) (Approval Order); and 68805 (February 1, 2013), 78 FR 8648 (February 6, 2013) (SR–EDGX–2013–05) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Program Related to Trading Pauses Due to Extraordinary Market Volatility).

[8] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[9] *See* Securities Exchange Act Release No. 85667 (April 16, 2019), 84 FR 16736 (April 22, 2019) (SR–CboeEDGX–2019–023).

[10] *See* Securities Exchange Act Release No. 87339 (October 17, 2019), 84 FR 56882 (October 23, 2019) (SR–CboeEDGX–2019–061).

[11] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61;

breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index. Pursuant to Rule 11.18, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. Eastern Time and before 3:25 p.m. Eastern Time would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. Eastern Time would not halt market-wide trading. A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 Market Decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day, which time may currently vary depending on the primary listing market. For example, if the primary listing market is the New York Stock Exchange (''NYSE''), NYSE would resume trading in its listed securities at 9:30 a.m. Eastern Time on the next trading day, and the Exchange would not be able to resume trading during the Exchange's Early Trading Session [12] or Pre-Opening Session.[13] Alternatively, if the primary listing market is the Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq would resume trading in its listed securities at 4:00 a.m. Eastern Time on the next trading day, and therefore, the Exchange would resume trading at the commencement of the Early Trading Session.

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[14] As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[15] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Early Trading Session.

To effect this change, the Exchange proposes to delete the language in Rule 11.16(b)(2) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 Market Decline, and specify that the Exchange will halt trading for the remainder of the trading day.[16] The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Early Trading Session at 7:00 a.m. Eastern Time under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

As discussed above, the Exchange's proposed rule change to Rule 11.16 would allow each exchange to resume trading in all securities on the day following the Level 3 Market Decline pursuant to its regular process for trading on any other trading day. Currently, the Exchange would re-open trading following a Level 3 Market Decline using a halt re-opening process for securities listed on other national securities exchanges.[17] With the proposed changes to the MWCB mechanism, it would no longer be necessary for the Exchange to have special procedures in place to resume trading after a Level 3 Market Decline, as the proposed changes are designed to allow trading to commence using normal operating procedures. Accordingly, the Exchange proposes to make corresponding changes to Exchange Rule 11.7(e), which sets forth the re-opening process after a halt. Specifically, the Exchange proposes to clarify that no halt re-opening process will be conducted by the Exchange following a Level 3 Market Decline. With these changes, trading would be allowed to commence normally on the trading day following a Level 3 Market Decline, similar to the resumption of trading on certain other national securities exchanges that would currently open with continuous trading.[18]

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that opening in the normal course in all equity securities will be beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the Early Trading Session, which does not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by opening in the Early

SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[12] *See* Exchange Rule 1.5(ii).

[13] *See* Exchange Rule 1.5(s).

[14] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. Eastern Time (for CFE and CME) or at 8:00 p.m. Eastern Time (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. Eastern Time (CFE and CME) or 8:00 p.m. Eastern Time (ICE) the same day as the Level 3 halt.

[15] The Exchange notes that Nasdaq has recently filed a similar proposal to amend its MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally. Further, the Exchange anticipates that other national securities exchanges and FINRA will also file similar proposals.

[16] Presently, the Exchange's equities trading day ends at 8:00 p.m. ET. *See* Exchange Rule 1.5(r).

[17] *See* Exchange Rule 11.7(e); *See also* SIP Market-Wide Circuit Breaker Overview, *available at http://www.utpplan.com/DOC/MWCB_SIP_Overview.pdf.*

[18] *See* Nasdaq Rule 4121(c)(i). *See also* Id.

Trading Session in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the Exchange at the beginning of the Early Trading Session in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Section 6(b)(5) of the Act,[20] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 11.16 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 Market Decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day (*i.e.,* with continuous trading on the Exchange at the beginning of the Early Trading Session at 7 a.m. Eastern Time) will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule changes would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 11.16 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

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 because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.[21]

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[22] and Rule 19b–4(f)(6) thereunder.[23] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.[24]

A proposed rule change filed under Rule 19b–4(f)(6)[25] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[26] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it approved a substantively similarly proposed rule change submitted by Nasdaq.[27] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[28]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[29] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *See, e.g.,* Securities Exchange Act Release No. 88342 (March 6, 2020), 85 FR 14513 (March 12, 2020) (SR–NASDAQ–2020–003).

[22] 15 U.S.C. 78s(b)(3)(A)(iii).

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 240.19b–4(f)(6)(iii).

[27] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–003).

[28] 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).

[29] 15 U.S.C. 78s(b)(2)(B).

CboeEDGX–2020–012 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2020–012. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2020–012 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06116 Filed 3–23–20; 8:45 am]

BILLING CODE 8011–01–P

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88416; File No. SR–CboeBYX–2020–009]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.18(b)(2) Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt and Make Corresponding Changes to Rule 11.23(e)

March 18, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2020, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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 to amend Rule 11.18(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt and make corresponding changes to Rule 11.23(e).

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.18(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt and to amend Rule 11.23(e) to make corresponding changes to the re-opening process after a halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 11.18 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker mechanism (''MWCB'') under Rule 11.18 was approved by the Commission to operate on a pilot basis,[5] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[6] including any extensions to the pilot period for the LULD Plan.[7] The Commission recently approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[8] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 11.18 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[9] The Exchange then filed to extend the pilot for an additional year to the close

[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] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BYX–2011–025).

[6] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[7] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BYX–2011–025) (Approval Order); and 68885 (February 8, 2013), 78 FR 10649 (February 14, 2013) (SR–BYX–2013–006) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Program Related to Trading Pauses Due to Extraordinary Market Volatility).

[8] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[9] *See* Securities Exchange Act Release No. 85665 (April 16, 2019), 84 FR 16749 (April 22, 2019) (SR–CboeBYX–2019–004).

of business on October 18, 2020.[10] The market-wide circuit breaker under Rule 11.18 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[11] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index. Pursuant to Rule 11.18, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. Eastern Time and before 3:25 p.m. Eastern Time would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. Eastern Time would not halt market-wide trading. A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 Market Decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day, which time may currently vary depending on the primary listing market. For example, if the primary listing market is the New York Stock Exchange (''NYSE''), NYSE would resume trading in its listed securities at 9:30 a.m. Eastern Time on the next trading day, and the Exchange would not be able to resume trading during the Exchange's Early Trading Session [12] or Pre-Opening Session.[13] Alternatively, if the primary listing market is the Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq would resume trading in its listed securities at 4:00 a.m. Eastern Time on the next trading day, and therefore, the Exchange would resume trading at the commencement of the Early Trading Session.

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[14] As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[15] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Early Trading Session.

To effect this change, the Exchange proposes to delete the language in Rule 11.18(b)(2) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 Market Decline, and specify that the Exchange will halt trading for the remainder of the trading day.[16] The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Early Trading Session at 7:00 a.m. Eastern Time under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

As discussed above, the Exchange's proposed rule change to Rule 11.18 would allow each exchange to resume trading in all securities on the day following the Level 3 Market Decline pursuant to its regular process for trading on any other trading day. Currently, the Exchange would re-open trading following a Level 3 Market Decline using a halt re-opening process for securities listed on other national securities exchanges.[17] With the proposed changes to the MWCB mechanism, it would no longer be necessary for the Exchange to have special procedures in place to resume trading after a Level 3 Market Decline, as the proposed changes are designed to allow trading to commence using normal operating procedures. Accordingly, the Exchange proposes to make corresponding changes to Exchange Rule 11.23(e), which sets forth the re-opening process after a halt. Specifically, the Exchange proposes to clarify that no halt re-opening process will be conducted by the Exchange following a Level 3 Market Decline. With these changes, trading would be allowed to commence normally on the trading day following a Level 3 Market Decline, similar to the resumption of trading on certain other national securities exchanges that would currently open with continuous trading.[18]

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after

[10] *See* Securities Exchange Act Release No. 87343 (October 18, 2019), 84 FR 57104 (October 24, 2019) (SR–CboeBYX–2019–017).

[11] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[12] *See* Exchange Rule 1.5(ee).

[13] *See* Exchange Rule 1.5(r).

[14] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. Eastern Time (for CFE and CME) or at 8:00 p.m. Eastern Time (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. Eastern Time (CFE and CME) or 8:00 p.m. Eastern Time (ICE) the same day as the Level 3 halt.

[15] The Exchange notes that Nasdaq has recently filed a similar proposal to amend its MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally. Further, the Exchange anticipates that other national securities exchanges and FINRA will also file similar proposals.

[16] Presently, the Exchange's equities trading day ends at 8:00 p.m. ET. *See* Exchange Rule 1.5(c).

[17] *See* Exchange Rule 11.23(e); *See also* SIP Market-Wide Circuit Breaker Overview, *available at http://www.utpplan.com/DOC/MWCB_SIP_Overview.pdf.*

[18] *See* Nasdaq Rule 4121(c)(i). *See also* Id.

a significant market event. Based on industry feedback, the Exchange believes that opening in the normal course in all equity securities will be beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the Early Trading Session, which does not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by opening in the Early Trading Session in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the Exchange at the beginning of the Early Trading Session in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Section 6(b)(5) of the Act,[20] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 11.18 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 Market Decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day (*i.e.,* with continuous trading on the Exchange at the beginning of the Early Trading Session at 7 a.m. Eastern Time) will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule changes would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 11.18 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

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 because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.[21]

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.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *See, e.g.,* Securities Exchange Act Release No. 88342 (March 6, 2020), 85 FR 14513 (March 12, 2020) (SR–NASDAQ–2020–003).

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[22] and Rule 19b–4(f)(6) thereunder.[23] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.[24]

A proposed rule change filed under Rule 19b–4(f)(6)[25] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[26] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it approved a substantively similarly proposed rule change submitted by Nasdaq.[27] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[28]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if

[22] 15 U.S.C. 78s(b)(3)(A)(iii).

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 240.19b–4(f)(6)(iii).

[27] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–003).

[28] 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).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [29] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBYX–2020–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2020–009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CboeBYX–2020–009 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06115 Filed 3–23–20; 8:45 am]

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[29] 15 U.S.C. 78s(b)(2)(B).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88417; File No. SR–CboeBZX–2020–025]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.18(b)(2) Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt and Make Corresponding Changes to Rules 11.23(d) and 11.24(e)

March 18, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2020, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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 amend Rule 11.18(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt and make corresponding changes to Rules 11.23(d) and 11.24(e).

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.18(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt and to amend Rules 11.23(d) and 11.24(e) to make corresponding changes to the halt auction and halt re-opening process after such a halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 11.18 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker mechanism (''MWCB'') under Rule 11.18 was approved by the Commission to operate on a pilot basis,[5] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[6] including any extensions to the pilot period for the LULD Plan.[7] The Commission recently

[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] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038).

[6] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[7] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038) (Approval Order); and 68851 (February 6, 2013), 78 FR 9955 (February 12, 2013) (SR–BATS–2013–009) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change

approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[8] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 11.18 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[9] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[10] The market-wide circuit breaker under Rule 11.18 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[11] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index. Pursuant to Rule 11.18, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. Eastern Time and before 3:25 p.m. Eastern Time would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. Eastern Time would not halt market-wide trading. A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 Market Decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day, which time may currently vary depending on the primary listing market. For example, if the primary listing market is the New York Stock Exchange (''NYSE''), NYSE would resume trading in its listed securities at 9:30 a.m. Eastern Time on the next trading day, and the Exchange would not be able to resume trading during the Exchange's Early Trading Session [12] or Pre-Opening Session.[13] Alternatively, if the primary listing market is the Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq would resume trading in its listed securities at 4:00 a.m. Eastern Time on the next trading day, and therefore, the Exchange would resume trading at the commencement of the Early Trading Session.

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[14] As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[15] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Early Trading Session.

To effect this change, the Exchange proposes to delete the language in Rule 11.18(b)(2) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 Market Decline, and specify that the Exchange will halt trading for the remainder of the trading day.[16] The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Early Trading Session at 7:00 a.m. Eastern Time under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

As discussed above, the Exchange's proposed rule change to Rule 11.18 would allow each exchange to resume trading in all securities on the day following the Level 3 Market Decline pursuant to its regular process for trading on any other trading day. Currently, the Exchange would re-open trading following a Level 3 Market Decline using a Halt Auction for its listed securities, and using a halt re-opening process for securities listed on other national securities exchanges.[17] With the proposed changes to the MWCB mechanism, it would no longer be necessary for the Exchange to have special procedures in place to resume trading after a Level 3 Market Decline, as the proposed changes are designed to allow trading to commence using normal operating procedures. Accordingly, the Exchange proposes to make corresponding changes to Exchange Rule 11.23(d), which governs initial public offering (''IPO'') and halt

To Extend the Pilot Program Related to Trading Pauses Due to Extraordinary Market Volatility).

[8] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[9] *See* Securities Exchange Act Release No. 85689 (April 18, 2019), 84 FR 17217 (April 24, 2019) (SR–CboeBZX–2019–028).

[10] *See* Securities Exchange Act Release No. 87336 (October 17, 2019), 84 FR 56868 (October 23, 2019) (SR–CboeBZX–2019–088).

[11] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SRCBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SREDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SRNYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[12] *See* Exchange Rule 1.5(ee).

[13] *See* Exchange Rule 1.5(r).

[14] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. Eastern Time (for CFE and CME) or at 8:00 p.m. Eastern Time (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. Eastern Time (CFE and CME) or 8:00 p.m. Eastern Time (ICE) the same day as the Level 3 halt.

[15] The Exchange notes that Nasdaq has recently filed a similar proposal to amend its MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally. Further, the Exchange anticipates that other national securities exchanges and FINRA will also file similar proposals.

[16] Presently, the Exchange's equities trading day ends at 8:00 p.m. ET. *See* Exchange Rule 1.5(c).

[17] *See* Exchange Rules 11.23(d), 11.24(e); *See also* SIP Market-Wide Circuit Breaker Overview, *available at http://www.utpplan.com/DOC/MWCB_SIP_Overview.pdf.*

auctions in BZX listed securities. Specifically, the Exchange proposes to clarify that no halt auction will be conducted by the Exchange following a Level 3 Market Decline. Similarly, the Exchange proposes to make corresponding changes to Exchange Rule 11.24(e), which sets forth the re-opening process after a halt in non-BZX-listed securities. Specifically, the Exchange proposes to clarify that no halt re-opening process will be conducted by the Exchange following a Level 3 Market Decline. With these changes, trading would be allowed to commence normally on the trading day following a Level 3 Market Decline, similar to the resumption of trading on certain other national securities exchanges that would currently open with continuous trading.[18]

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that opening in the normal course in all equity securities will be beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the Early Trading Session, which does not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by opening in the Early Trading Session in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the Exchange at the beginning of the Early Trading Session in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Section 6(b)(5) of the Act,[20] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 11.18 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 Market Decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day (*i.e.,* with continuous trading on the Exchange at the beginning of the Early Trading Session at 7 a.m. Eastern Time) will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule changes would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 11.18 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

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 because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.[21]

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[22] and Rule 19b–4(f)(6) thereunder.[23] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.[24]

A proposed rule change filed under Rule 19b–4(f)(6)[25] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[26] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may

[18] *See* Nasdaq Rule 4121(c)(i). *See also* Id.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *See, e.g.,* Securities Exchange Act Release No. 88342 (March 6, 2020), 85 FR 14513 (March 12, 2020) (SR–NASDAQ–2020–003).

[22] 15 U.S.C. 78s(b)(3)(A)(iii).

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 240.19b–4(f)(6)(iii).

become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it approved a substantively similarly proposed rule change submitted by Nasdaq.[27] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[28]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[29] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2020–025 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-–CboeBZX–2020–025. 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–CboeBZX–2020–025 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06119 Filed 3–23–20; 8:45 am]

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[27] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–003).

[28] 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).

[29] 15 U.S.C. 78s(b)(2)(B).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88408; File No. SR–NYSE–2020–16]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section 902.08 of the NYSE Listed Company Manual To Waive Initial Listing Fees and First Partial Year of Annual Listing Fees for NYSE Bonds Securities That List in Conjunction With Voluntary Delisting From a Regulated Foreign Exchange

March 18, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 5, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 902.08 of the NYSE Listed Company Manual (the ''Manual'') to waive initial listing fees and the first partial year of annual fees in relation to bonds listed in conjunction with their voluntary delisting from a regulated foreign exchange. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 902.08 of the Manual to waive initial listing fees and the first partial year of annual fees in relation to NYSE Bonds Securities[4] listed in conjunction with their voluntary delisting[5] from a

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] As defined in Section 902.08, NYSE Bonds Securities include structured products listed under Section 703.19 and traded on NYSE Bonds and all debt securities listed under Sections 102.03 and 103.05 (excluding non-listed debt of NYSE issuers and affiliate companies and domestic listed debt of issuers exempt from registration under the Act).

[5] A voluntary delisting for this purpose occurs where the securities in question are not subject to delisting on the foreign regulated exchange for any regulatory reason but are being delisted solely by the choice of the issuer.

regulated foreign exchange. The proposed waiver is identical to a waiver currently applied under Section 902.08 in connection with the listing of NYSE Bonds Securities transferred from another national securities exchange.[6]

In adopting this waiver in relation to NYSE Bonds Securities whose listing was being transferred from another national securities exchange, the Exchange noted that companies transferring in mid-year would already have paid listing fees for that year to the exchange on which they were previously listed and that the double payment the Exchange's initial listing fee and prorated annual fee would impose on them would impose a significant financial burden and act as a disincentive to transferring. The Exchange also noted that the proposed waivers were consistent with the approach taken by the NYSE itself and the other national securities exchanges with respect to the waiver of fees in connection with the transfer of common equity securities from another national securities exchange. As the Exchange competes with foreign regulated exchanges for the listing of bonds and structured products in the same way it competes with other national securities exchanges, the costs of initial listing and the potential duplication of fee payments in the first part year of listing on the NYSE represent a similar impediment to the Exchange successfully competing with foreign regulated exchanges for the transfer of the listing of those securities. As such, the Exchange believes it is appropriate to apply the same waivers in relation to issuers voluntarily delisting their securities from a regulated foreign exchange in connection with listing them on the Exchange for trading on NYSE Bonds.

The proposed rule change would not affect the Exchange's commitment of resources to its regulatory oversight of the listing process or its regulatory programs.

The Exchange also proposes to remove text from Section 902.08 that is no longer relevant as it ceased to be operative on January 1, 2020.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(4)[8] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Change Is Reasonable

The Exchange operates in a highly competitive marketplace for the categories of securities listed and traded on NYSE Bonds. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets.

The Exchange believes that the ever shifting market share among the exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes. Accordingly, competitive forces constrain exchange listing fees. Stated otherwise, changes to exchange listing fees can have a direct effect on the ability of an exchange to compete for new listings and retain existing listings.

Given this competitive environment, the Exchange believes that the proposal to waive initial listing fees and the first year's prorated annual fees for NYSE Bonds Securities listing in conjunction with their voluntary delisting from a foreign regulated exchange is reasonable because the cost of paying listing fees to both the NYSE and the predecessor exchange imposes a significant financial burden and acts as a disincentive to transferring.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes that the waiver of initial listing fees and the prorated annual fee for the first year of listing for NYSE Bonds Securities listing in conjunction with their voluntary delisting from a foreign regulated exchange is not inequitable as it expects it will be available to a small number of issuers and is being implemented solely to relieve these issuers of the burden of duplicative payments to two exchanges.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory, because the proposed waivers are solely intended to avoid duplication of costs for issuers transferring their listings from foreign regulated exchanges and not to provide them with any benefit that would place them in a more favorable position than other listed companies.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

The proposed removal of text relating to fees that are no longer applicable is ministerial in nature and has no substantive effect.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The proposed waivers will be available to all similarly situated applicants on the same basis. The Exchange does not believe that the proposed amended fees will have any meaningful effect on the competition among issuers listed on the Exchange.

Intermarket Competition

The Exchange operates in a highly competitive market in which issuers can readily choose to list new securities on other exchanges and transfer listings to other exchanges if they deem fee levels at those other venues to be more favorable. Because competitors are free to modify their own fees in response, and because issuers may change their chosen listing venue, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

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.

[6] *See* Securities Exchange Act Release No. 87832 (December 20, 2019); 84 FR 72047 (December 30, 2019) (SR–NYSE–2019–63).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–16 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88414; File No. SR–NYSEARCA–2020–23]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.12–E Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt

March 18, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 16, 2020, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.12–E concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.12–E concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 7.12–E provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker mechanism (''MWCB'') under Rule 7.12–E was approved by the Commission to operate on a pilot basis,[4] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSEArca–2011–68).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

LULD Plan.[6] In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[7] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 7.12–E to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[8] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[9]

The market-wide circuit breaker under Rule 7.12–E provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[10] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 7.12–E, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 market decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day. On the next trading day, all NYSE Group exchanges (*i.e.,* the Exchange, New York Stock Exchange (''NYSE''), NYSE American LLC (''NYSE American''), NYSE National, Inc., and NYSE Chicago, Inc.) would remain closed for all symbols until 9:30 a.m. ET, at which time the Exchange, NYSE, and NYSE American would begin their Core Open Auction processes for their primary-listed securities.

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[11]

As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[12] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Early Trading Session at 4:00 a.m. ET,[13] regardless of whether the primary listing markets for those securities have actually opened.

To effect this change, the Exchange proposes to delete the language in Rule 7.12–E(b)(ii) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that the Exchange will halt trading for the remainder of the trading day. The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Early Trading Session at 4:00 a.m. ET under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that resuming trading in the normal course in all equity securities will be more beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the various exchanges' early trading sessions, which do not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless

[6] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NYSEArca–2011–68) (Approval Order); and 68785 (January 31, 2013), 78 FR 8646 (February 6, 2013) (SR–NYSEArca–2013–06) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Delaying the Operative Date of a Rule Change to Exchange Rule 7.12–E).

[7] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[8] *See* Securities Exchange Act Release No. 85561 (April 9, 2019), 84 FR 15269 (April 15, 2019) (SR–NYSEArca–2019–23).

[9] *See* Securities Exchange Act Release No. 87017 (September 19, 2019), 84 FR 50543 (September 25, 2019) (SR–NYSEArca–2019–66).

[10] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[11] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. ET (for CFE and CME) or at 8:00 p.m. ET (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. ET (CFE and CME) or 8:00 p.m. ET (ICE) the same day as the Level 3 halt.

[12] The Exchange anticipates that the other national securities exchanges and FINRA will also file similar proposals to amend their MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally.

[13] Early Trading Session means the trading session that begins at 4:00 a.m. and continues until 9:30 a.m. *See* Rule 7.34–E(a)(1).

believes that this outcome is outweighed by the benefits provided by resuming trading in the early trading sessions in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the various exchanges at the beginning of their early trading sessions in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

The Exchange will announce the implementation date of the amendment to Rule 7.12–E(b)(ii) by Trader Update.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 7.12–E is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 market decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks.

Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 7.12–E with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

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 because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it approved a substantively similarly proposed rule change submitted by The Nasdaq Stock Market LLC.[21] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[22]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2020–23 on the subject line.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–03).

[22] 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).

[23] 15 U.S.C. 78s(b)(2)(B).

Paper Comments

• Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2020–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2020–23 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06105 Filed 3–23–20; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88411; File No. SR–NYSENAT–2020–11]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.12 Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt

March 18, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 16, 2020, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.12 concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.12 concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 7.12 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker mechanism (''MWCB'') under Rule 7.12 was approved by the Commission to operate on a pilot basis,[4] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[5] including any extensions to the pilot period for the LULD Plan.[6] In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[7] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 7.12 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[8] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[9]

The market-wide circuit breaker under Rule 7.12 provides an important, automatic mechanism that is invoked to

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NSX–2011–11) (approving amendments to Rule 11.20A). Rule 7.12 replaced Rule 11.20A without any substantive differences. *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (SR–NYSENAT–2018–02).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[6] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–NSX–2011–11) (Approval Order); and 68779 (January 31, 2013), 78 FR 8638 (February 6, 2013) (SR–NSX–2013–04) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Delaying the Operative Date of a Rule Change to Rule 11.20A).

[7] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[8] *See* Securities Exchange Act Release No. 85572 (April 9, 2019), 84 FR 15257 (April 15, 2019) (SR–NYSENAT–2019–08).

[9] *See* Securities Exchange Act Release No. 87077 (September 24, 2019), 84 FR 51671 (September 30, 2019) (SR–NYSENAT–2019–21).

promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[10] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 7.12, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 market decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day. On the next trading day, all NYSE Group exchanges (*i.e.,* the Exchange, New York Stock Exchange (''NYSE''), NYSE American, Inc. (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), and NYSE Chicago, Inc.) would remain closed for all symbols until 9:30 a.m. ET, at which time NYSE, NYSE American, and NYSE Arca would begin their Core Open Auction processes for their primary-listed securities.

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[11]

As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[12] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Early Trading Session at 7:00 a.m. ET,[13] regardless of whether the primary listing markets for those securities have actually opened.

To effect this change, the Exchange proposes to delete the language in Rule 7.12(b)(ii) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that the Exchange will halt trading for the remainder of the trading day. The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Early Trading Session at 7:00 a.m. ET under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that resuming trading in the normal course in all equity securities will be more beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the various exchanges' early trading sessions, which do not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by resuming trading in the early trading sessions in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the various exchanges at the beginning of their early trading sessions in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

The Exchange will announce the implementation date of the amendment to Rule 7.12(b)(ii) by Trader Update.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market

[10] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[11] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. ET (for CFE and CME) or at 8:00 p.m. ET (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. ET (CFE and CME) or 8:00 p.m. ET (ICE) the same day as the Level 3 halt.

[12] The Exchange anticipates that the other national securities exchanges and FINRA will also file similar proposals to amend their MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally.

[13] Early Trading Session means the trading session that begins at 7:00 a.m. ET and continues until 9:30 a.m. ET. *See* Rule 7.34(a)(1).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 7.12 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 market decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks.

Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 7.12 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

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 because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it approved a substantively similarly proposed rule change submitted by The Nasdaq Stock Market LLC.[21] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[22]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2020–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSENAT–2020–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE,

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–03).

[22] 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).

[23] 15 U.S.C. 78s(b)(2)(B).

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–NYSENAT–2020–11 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06103 Filed 3–23–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88413; File No. SR–NYSE–2020–19]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.35C To Provide Temporarily, Until May 15, 2020, the Exchange With Discretion To Facilitate a Trading Halt Auction Following a Market-Wide Circuit Breaker Halt if a Security Has Not Reopened by 3:30 p.m. Eastern Time

March 18, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 17, 2020, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes amend Rule 7.35C to provide the Exchange with discretion to facilitate a Trading Halt Auction following a market-wide circuit breaker halt if a security has not reopened by 3:30 p.m. Eastern Time. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.35C to provide the Exchange with discretion to facilitate a Trading Halt Auction following a Level 1 or Level 2 trading halt due to extraordinary market volatility under Rule 7.12 (''MWCB Halt'') if a security has not reopened by 3:30 p.m. Eastern Time.[4]

Under Rule 7.12, if there is a Level 1 or Level 2 Market Decline, the Exchange halts trading in all stocks for 15 minutes. At the end of that 15-minute MWCB Halt, the reopening of trading follows the procedures set forth in the Rule 7.35 Series, which provide for Designated Market Makers (''DMMs'') to facilitate such Trading Halt Auctions pursuant to Rule 7.35A. Under Rule 7.35A, a DMM can facilitate a Trading Halt Auction following a MWCB Halt either electronically or manually. Trading Halt Auctions facilitated manually by the DMM may not be completed until some period after the end of the 15-minute MWCB Halt. If a security has not been reopened for trading by 3:50 p.m., that security will remain halted and will be eligible for a Closing Auction, as provided for in the Rule 7.35 Series, instead of a Trading Halt Auction.[5]

Rule 7.35C sets forth the procedures for Exchange-facilitated auctions. Currently, the Exchange will facilitate an Auction only if a DMM cannot facilitate an Auction for one or more securities.

To facilitate the fair and orderly reopening of securities following a MWCB Halt, the Exchange proposes that it have discretion to facilitate a Trading Halt Auction in one or more securities under the procedures described in Rule 7.35C if a security is not reopened by 3:30 p.m. The Exchange continues to believe that DMM-facilitated Trading Halt Auctions following a MWCB Halt provide the greatest opportunity for fair and orderly reopenings of securities, and would therefore continue to provide DMMs an opportunity to reopen securities before effectuating an Exchange-facilitated Trading Halt Auction. The proposal would provide the Exchange with another tool during volatile markets to reopen securities before 3:50 p.m., for continuous trading to resume leading into the close. This proposed rule change would therefore provide the CEO of the Exchange or his or her designee the authority to determine that the Exchange would facilitate a Trading Halt Auction so that a security in one or more securities [sic] under the procedures set forth in Rule 7.35C if a security has not reopened by 3:30 p.m., and therefore have continuous trading resume before leading into the close.

The Exchange believes that specifying a time in the Rule at which the Exchange could exercise such discretion would put DMMs on notice of the time that the Exchange could begin facilitating such auctions. The Exchange further believes that it is not appropriate to provide that the Exchange would automatically facilitate reopening auctions at 3:30 p.m. There may be facts and circumstances where DMMs would be able to reopen all securities before 3:50 p.m., but that the DMM-facilitated process may not have completed by 3:30 p.m. The Exchange would take those facts and circumstances into account before invoking the proposed relief. Exchange staff would communicate with the impacted DMMs verbally on the Floor during such times, and therefore the DMMs would be on notice of whether the Exchange would invoke this relief, and for which securities.

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Under Rule 7.12, a ''Level 1 Market Decline'' means a decline in the price of the S&P 500 Index of 7% from the closing price of that index, and a ''Level 2 Market Decline'' means a decline in the price of the S&P 500 Index of 13% from the closing price of that index.

[5] In such case, MOO Orders, LOO Orders, Opening D Orders, and Primary Pegged Orders will be cancelled (Rule 7.35(d)(2)) and the Exchange will begin disseminating Closing Auction Imbalance Information (Rule 7.35(d)(3)).

For any Exchange-facilitated Trading Halt Auction, the Exchange proposes to widen the Auction Collars. Currently, the Auction Collar for an Exchange-facilitated Trading Halt Auction would be based on a price that is greater than $0.15 or 5% away from the Auction Reference Price for the Trading Halt Auction.[6] The Exchange proposes that, if it facilitates a Trading Halt Auction following a MWCB Halt pursuant to proposed Commentary .01, the Auction Collars would be the greater of $0.15 or 10% away from the Auction Reference Price.

The proposed rule change is designed to provide the Exchange with more flexibility to respond to the unprecedented market-wide declines that have resulted from both the ongoing spread of the novel COVID–19 virus and an over 30% decline in oil prices before the beginning of trading on March 9, 2020. On Monday, March 9, 2020, the U.S. equities markets triggered the first-ever Level 1 MWCB Halt under the current rules, and only the second MWCB Halt since market-wide circuit breaker rules were adopted after the October 29, 1987 crash.[7] In advance of the opening on March 9, 2020, the E-mini S&P Futures had triggered a limit down state on the futures market and SPDR S&P 500 ETF (SPY) was trading down over 7% from the prior day's close. Shortly after the opening of trading at 9:30 a.m., the market continued its steep decline and a Level 1 MWCB Halt was triggered at 9:34:13 a.m., with the reopening of trading to begin at 9:49:13 a.m.

Following continued market declines on March 10 and 11, 2020, on Thursday, March 12, 2020, as a result of continued uncertainty about COVID–19, in advance of the opening, the E-mini S&P 500 Futures reached a limit down state on the futures market and SPY was trading down nearly 7% from the prior day's close. With continued declines after the open of trading, a Level 1 MWCB Halt was triggered at 9:35:44 a.m., with the reopening of trading to begin at 9:50:44. All NYSE-listed securities were reopened by 10:23 a.m.[8] And on Monday, March 16, 2020, following several announcements over the preceding weekend of school closures nationwide, additional guidance on social distancing, including limitations on social gatherings of 50 people or more, and a Federal Reserve announcement that interest rates were being reduced to zero percent, at 9:30:01, a Level 1 MWCB Halt was triggered after the S&P 500 Index declined over 9% in that one second of trading.

Because the reasons for these market declines and related triggers of MWCB Halts are related to the extraordinary ongoing uncertainty regarding how COVID–19 will impact the global economy and daily life, the Exchange proposes to adopt these proposed rule changes on a temporary basis, until May 15, 2020. If uncertainty continues and the Exchange believes that the period for this proposed rule change should be extended, it will file a separate proposed rule change.

The proposed Commentary .01 to Rule 7.35C would provide as follows:

> .01 Until May 15, 2020, to facilitate the fair and orderly reopening of securities following either a Level 1 or Level 2 trading halt due to extraordinary market volatility under Rule 7.12 (''MWCB Halt''), the CEO of the Exchange or his or her designee may determine that the Exchange will facilitate a Trading Halt Auction in one or more securities under this Rule if a security has not reopened by 3:30 p.m. If the Exchange facilitates a Trading Halt Auction following a MWCB Halt pursuant to this Commentary, the Auction Collars will be the greater of $0.15 or 10% away from the Auction Reference Price.

The Exchange would be able to implement the proposed rule change immediately upon effectiveness of this proposed rule change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

As a result of uncertainty related to the ongoing spread of the COVID–19 virus and declines in the oil market, the U.S. equities markets are experiencing unprecedented market declines. Level 1 MWCB Halts were triggered on March 9, March 12, and March 16, 2020, and these were the first-ever MWCB Halts under the current rules. The last time there was a MWCB Halt was in 1997. The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide discretion for the Exchange to reopen securities if a security has not reopened following a MWCB Halt by 3:30 p.m., which would allow continuous trading to resume leading into the close. As noted, the first-ever MWCB Halts occurred during the week of March 9, 2020, and there have now been three. Based on our experience in the reopening process for these MWCB Halts, the Exchange believes that this proposed rule change would provide the Exchange with the flexibility to use the Rule 7.35C Exchange-facilitated auction procedures to reopen securities more quickly, if needed, near the close of trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to ensure a fair and orderly reopening of securities following a MWCB Halt by provided for a temporary period during which the Exchange would have the flexibility to facilitate a Trading Halt Auction following a MWCB Halt if a security has not reopened by 3:30 p.m. so that the security can resume continuous trading leading into the close.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section

[6] The Auction Reference Price for an Exchange-facilitated Trading Halt Auction is the Imbalance Reference Price as determined under Rule 7.35A(e)(3), and is therefore the Consolidated Last Sale Price. As defined in Rule 7.35(a)(11)(A), the Consolidated Last Sale Price means the most recent consolidated last-sale eligible trade in a security on any market during Core Trading Hours on that trading day, and if none, the Official Closing Price from the prior trading day for that security.

[7] The prior MWCB Halt was triggered under former Rule 80B on Monday, October 27, 1997. The trigger for the MWCB Halts on that day were based on point declines in the Dow Jones Industrial Average (200 point decline to halt trading for 30 minutes and a 400 point decline to halt trading for one hour).

[8] Because of the extension logic applicable to Trading Halt Auctions following MWCB Halt for securities listed on NYSE Arca, Inc. (''NYSE Arca'') (see NYSE Arca Rule 7.35–E(e), NYSE Arca-listed securities did not all resume trading at 9:50:44. Similar to NYSE, all NYSE Arca-listed securities were also reopened by 10:23 a.m.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] 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, 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[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] 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 states that the proposed rule change is designed to respond to the unprecedented uncertainty and market declines resulting from the ongoing spread of the COVID–19 virus and the over 30% decline in oil prices before the beginning of trading on March 9, 2020. The Exchange notes that these market declines have already triggered an unprecedented three Level 1 MWCB Halts in one week. The proposal would provide the Exchange on a temporary basis, until May 15, 2020, with discretion to facilitate a Trading Halt Auction following a MWCB Halt, if a security has not reopened by 3:30 p.m. Eastern Time. The proposal would not provide that the Exchange would automatically facilitate reopening auctions at 3:30 p.m. The Exchange notes that there may be facts and circumstances where DMMs would be able to reopen all securities before 3:30 p.m., but that the DMM-facilitated process may not be completed by 3:30 p.m. The Exchange represents that it would take those facts and circumstances into account before invoking the proposed relief, and that Exchange staff would communicate with the impacted DMMs verbally on the Floor during such times, and that therefore the DMMs would be on notice of whether the Exchange would invoke this relief and for which securities. The Exchange asserts that the proposal would provide the Exchange with another tool during volatile markets to reopen securities before 3:50 p.m., for continuous trading to resume leading into the close. According to the Exchange, this measure is designed to ensure a fair and orderly reopening of securities following a MWCB Halt. The Exchange represents that it is able to implement these proposed rule changes immediately, and that waiver of the 30-day operative delay would provide the Exchange with additional means by which to ensure the resumption of continuous trading on its market leading into the close in the event that a security is not reopened by 3:30 p.m. Eastern Time following a MWCB Halt. 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–NYSE–2020–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–19, and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

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[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 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 Commission has waived that requirement for this proposed rule change.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission 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. 34–88419; File No. SR–CboeEDGA–2020–008]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.16(b)(2) Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt and Make Corresponding Changes to Rule 11.7(e)

March 18, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2020, Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') 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 amend Rule 11.16(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt and to amend Rule 11.7(e) to make corresponding changes to the re-opening process after a halt.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.16(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt and to amend Rule 11.7(e) to make corresponding changes to the re-opening process after a halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 11.16 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker mechanism (''MWCB'') under Rule 11.16 was approved by the Commission to operate on a pilot basis,[5] the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[6] including any extensions to the pilot period for the LULD Plan.[7] The Commission recently approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[8] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 11.16 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[9] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[10] The market-wide circuit breaker under Rule 11.16 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[11] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index. Pursuant to Rule 11.18, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. Eastern Time and before 3:25 p.m. Eastern Time would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. Eastern Time would not halt market-wide trading. A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 Market Decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day, which time may currently vary depending on the primary listing market. For example, if the primary listing market is the New York Stock Exchange (''NYSE''), NYSE would resume trading in its listed securities at 9:30 a.m. Eastern Time on the next trading day, and the Exchange would not be able to resume trading during the Exchange's Early Trading

[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] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–EDGA–2011–31).

[6] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[7] See Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–EDGA–2011–31) (Approval Order); and 68813 (February 1, 2013), 78 FR 9073 (February 7, 2013) (SR–EDGA–2013–06) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Program Related to Trading Pauses Due to Extraordinary Market Volatility).

[8] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[9] *See* Securities Exchange Act Release No. 85668 (April 16, 2019), 84 FR 16743 (April 22, 2019) (SR–CboeEDGA–2019–006).

[10] *See* Securities Exchange Act Release No. 87335 (October 17, 2019), 84 FR 56858 (October 23, 2019) (SR–CboeEDGA–2019–016).

[11] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

Session [12] or Pre-Opening Session.[13] Alternatively, if the primary listing market is the Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq would resume trading in its listed securities at 4:00 a.m. Eastern Time on the next trading day, and therefore, the Exchange would resume trading at the commencement of the Early Trading Session.

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[14] As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[15] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Early Trading Session.

To effect this change, the Exchange proposes to delete the language in Rule 11.16(b)(2) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 Market Decline, and specify that the Exchange will halt trading for the remainder of the trading day.[16] The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Early Trading Session at 7:00 a.m. Eastern Time under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

As discussed above, the Exchange's proposed rule change to Rule 11.16 would allow each exchange to resume trading in all securities on the day following the Level 3 Market Decline pursuant to its regular process for trading on any other trading day. Currently, the Exchange would re-open trading following a Level 3 Market Decline using a halt re-opening process for securities listed on other national securities exchanges.[17] With the proposed changes to the MWCB mechanism, it would no longer be necessary for the Exchange to have special procedures in place to resume trading after a Level 3 Market Decline, as the proposed changes are designed to allow trading to commence using normal operating procedures. Accordingly, the Exchange proposes to make corresponding changes to Exchange Rule 11.7(e), which sets forth the re-opening process after a halt. Specifically, the Exchange proposes to clarify that no halt re-opening process will be conducted by the Exchange following a Level 3 Market Decline. With these changes, trading would be allowed to commence normally on the trading day following a Level 3 Market Decline, similar to the resumption of trading on certain other national securities exchanges that would currently open with continuous trading.[18]

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that opening in the normal course in all equity securities will be beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the Early Trading Session, which does not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by opening in the Early Trading Session in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the Exchange at the beginning of the Early Trading Session in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Section 6(b)(5) of the Act,[20] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 11.16 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 Market Decline. As described above, the

[12] *See* Exchange Rule 1.5(ii).

[13] *See* Exchange Rule 1.5(s).

[14] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. Eastern Time (for CFE and CME) or at 8:00 p.m. Eastern Time (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. Eastern Time (CFE and CME) or 8:00 p.m. Eastern Time (ICE) the same day as the Level 3 halt.

[15] The Exchange notes that Nasdaq has recently filed a similar proposal to amend its MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally. Further, the Exchange anticipates that other national securities exchanges and FINRA will also file similar proposals.

[16] Presently, the Exchange's equities trading day ends at 8:00 p.m. ET. *See* Exchange Rule 1.5(r).

[17] *See* Exchange Rule 11.7(e); *See also* SIP Market-Wide Circuit Breaker Overview, *available at http://www.utpplan.com/DOC/MWCB_SIP_Overview.pdf.*

[18] *See* Nasdaq Rule 4121(c)(i). *See also* Id.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day (*i.e.,* with continuous trading on the Exchange at the beginning of the Early Trading Session at 7 a.m. Eastern Time) will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule changes would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 11.16 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

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 because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.[21]

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.

[21] *See, e.g.,* Securities Exchange Act Release No. 88342 (March 6, 2020), 85 FR 14513 (March 12, 2020) (SR–NASDAQ–2020–003).

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[22] and Rule 19b–4(f)(6) thereunder.[23] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.[24]

A proposed rule change filed under Rule 19b–4(f)(6)[25] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[26] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it approved a substantively similarly proposed rule change submitted by Nasdaq.[27] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[28]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[29] of the Act to determine whether the proposed rule change should be approved or disapproved.

[22] 15 U.S.C. 78s(b)(3)(A)(iii).

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 240.19b–4(f)(6)(iii).

[27] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–003).

[28] 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).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeEDGA–2020–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGA–2020–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are

[29] 15 U.S.C. 78s(b)(2)(B).

cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CboeEDGA–2020–008 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06117 Filed 3–23–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–195; OMB Control No. 3235–0198]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 15c2–5.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15c2–5 (17 CFR 240.15c2–5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15c2–5 prohibits a broker-dealer from arranging or extending certain loans to persons in connection with the offer or sale of securities unless, before any element of the transaction is entered into, the broker-dealer: (1) Delivers to the person a written statement containing the exact nature and extent of the person's obligations under the loan arrangement; the risks and disadvantages of the loan arrangement; and all commissions, discounts, and other remuneration received and to be received in connection with the transaction by the broker-dealer or certain related persons (unless the person receives certain materials from the lender or broker-dealer which contain the required information); and (2) obtains from the person information on the person's financial situation and needs, reasonably determines that the transaction is suitable for the person, and retains on file and makes available to the person on request a written statement setting forth the broker-dealer's basis for determining that the transaction was suitable. The collection of information required by Rule 15c2–5 is necessary to execute the Commission's mandate under the Exchange Act to prevent fraudulent, manipulative, and deceptive acts and practices by broker-dealers.

The Commission estimates that there are approximately 50 respondents that require an aggregate total of 600 hours to comply with Rule 15c2–5.[1] Each of these approximately 50 registered broker-dealers makes an estimated six annual responses, for an aggregate total of 300 responses per year.[2] Each response takes approximately two hours to complete. Thus, the total compliance burden per year is 600 burden hours.[3] The approximate internal compliance cost per hour is $63.00 for clerical labor,[4] resulting in a total internal compliance cost of $37,800.[5] These reflect internal labor costs; there are no external labor, capital, or start-up costs.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 18, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06109 Filed 3–23–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–455, OMB Control No. 3235–0514]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 8c–1.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 8c–1 (17 CFR 240.8c–1), under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 8c–1 generally prohibits a broker-dealer from using its customers' securities as collateral to finance its own trading, speculating, or underwriting transactions. More specifically, Rule 8c–1 states three main principles: (1) A broker-dealer is prohibited from commingling the securities of different customers as collateral for a loan without the consent of each customer; (2) a broker-dealer cannot commingle customers' securities with its own securities under the same pledge; and (3) a broker-dealer can only pledge its customers' securities to the extent that customers are in debt to the broker-dealer. Additionally, Rule 8c–1 requires broker-dealers to make certain written notifications to pledgees in connection

[30] 17 CFR 200.30–3(a)(12).

[1] 50 respondents × 6 responses per year × 2 hours per response = 600 hours per year.

[2] 50 respondents × 6 responses per year = 300 responses per year.

[3] 300 responses per year × 2 hours per response = 600 hours per year.

[4] Cost per hour for a clerk is from SIFMA's Office Salaries in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year, multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead, and adjusted by a factor of 1.0965 to account for inflation.

[5] 600 hours per year × $63.00 per hour = $37,800 per year.

with such use of customer securities as collateral.[1]

The information required by Rule 8c–1 is necessary for the execution of the Commission's mandate under the Exchange Act to prevent broker-dealers from hypothecating or arranging for the hypothecation of any securities carried for the account of any customer under certain circumstances. In addition, the information required by Rule 8c–1 provides important investor protections.

There are approximately 46 respondents as of year-end 2019 (*i.e.,* broker-dealers that conducted business with the public, filed Part II of the FOCUS Report, did not claim an exemption from the Reserve Formula computation, and reported that they had a bank loan during at least one quarter of the current year). Each respondent makes an estimated 45 annual responses, for an aggregate total of 2,070 responses per year.[2] Each response takes approximately 0.5 hours to complete. Therefore, the total third-party disclosure burden per year is 1,035 hours.[3]

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

[1] *See* Exchange Act Release No. 2690 (November 15, 1940); Exchange Act Release No. 9428 (December 29, 1971).

[2] 46 respondents × 45 annual responses = 2,070 aggregate total of annual responses.

[3] 2,070 responses × 0.5 hours = 1,035 hours.

Dated: March 18, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06108 Filed 3–23–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88421; File No. SR–IEX–2020–04]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend IEX Rule 11.280 Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt

March 18, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 18, 2020, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to amend IEX Rule 11.280 concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. IEX has designated this rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act [6] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[7]

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 statement 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 proposes to amend IEX Rule 11.280(b) [8] concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

IEX Rule 11.280 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers).[9] The market-wide circuit breaker mechanism (''MWCB'') under IEX Rule 11.280 was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''), including any extensions to the pilot period for the LULD Plan.[10] The Commission recently approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[11] In light of the proposal to make the LULD Plan permanent, the Exchange amended IEX Rule 11.280 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of

[8] *See* IEX Rule 11.280(b).

[9] *See* IEX Rule 11.280(a)–(d) and (f).

[10] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). An amendment to the LULD Plan adding IEX as a Participant was filed with the Commission on August 11, 2016 and became effective upon filing pursuant to Rule 608(b)(3)(iii) of the Act. *See* Securities Exchange Act Release No. 78703 (August 26, 2016), 81 FR 60397 (September 1, 2016) (File No. 4–631).

[11] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

business on October 18, 2019.[12] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[13]

The market-wide circuit breaker under IEX Rule 11.280 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[14] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to IEX Rule 11.280, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3).[15] A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading.[16] A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.[17]

Today, in the event that a Level 3 market decline occurs, the Exchange would halt trading for the remainder of the trading day and would not resume until the primary listing market opens the next trading day. Thus, if the primary listing market is the New York Stock Exchange, Inc. (''NYSE''), IEX would not resume trading in NYSE-listed securities until NYSE opens at 9:30 a.m. ET on the next trading day.[18] But if the primary listing market is the Nasdaq Stock Market LLC (''Nasdaq''), IEX would resume trading in Nasdaq-listed securities at 8:00 a.m. ET on the next trading day, when IEX commences its Pre-Market Session.[19] Effectively, Nasdaq would open its listed securities for trading following a Level 3 halt the same as a regular trading day under the current MWCB Level 3 re-opening procedures.[20] For non-Nasdaq listed securities, however, IEX would resume trading once the primary listing market has re-opened the security for trading, which time may currently vary depending on the primary listing market.[21]

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[22]

As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[23] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Pre-Market Session, just as it currently does for Nasdaq-listed securities.

To effect this change, the Exchange proposes to delete the language in IEX Rule 11.280(b)(2) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that the Exchange will halt trading for the remainder of the same trading day.[24] The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for IEX would be at the beginning of the Pre-Market Session at 8:00 a.m. ET under its current rules.[25] The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that opening in the normal course in all equity securities as opposed to, for instance, having a normal opening for Nasdaq-listed securities only or waiting for the primary listing exchange to conduct a halt auction prior to resuming trading, will be more beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective

[12] *See* Securities Exchange Act Release No. 85576 (April 9, 2019), 84 FR 15237 (April 15, 2019) (SR–IEX–2019–04).

[13] *See* Securities Exchange Act Release No. 87298 (October 15, 2019), 84 FR 56255 (October 21, 2019) (SR–IEX–2019–11).

[14] *See supra* note 10.

[15] *See* IEX Rule 11.280(a).

[16] *See* IEX Rule 11.280(b)(1).

[17] *See* IEX Rule 11.280(b)(2).

[18] *See* NYSE Rule 1.1.

[19] Nasdaq's pre-market session begins at 4:00 a.m. ET and continues until 9:30 a.m. ET. *See* Nasdaq Rule 4120(b)(4). IEX's Pre-Market Session begins at 8:00 a.m. ET and continues until 9:30 a.m. ET. *See* IEX Rule 1.160(aa).

[20] The Nasdaq system begins accepting and processing eligible orders in time priority at 4:00 a.m. ET. *See* Nasdaq Rule 4752(b) for further description of trading in the Pre-Market Session.

[21] Furthermore, there may be cross-market differences in how each exchange currently opens the next day after a Level 3 MWCB halt. As discussed above, while Nasdaq currently resumes trading in its listed securities no differently from a regular trading day, other exchanges may, for instance, conduct a halt auction process instead of opening in the normal course under their respective rules. As discussed later in this filing, the proposed changes will allow each exchange to resume trading in all securities the next trading day following a Level 3 halt no differently from a regular trading day.

[22] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. ET (for CFE and CME) or at 8:00 p.m. ET (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. ET (CFE and CME) or 8:00 p.m. ET (ICE) the same day as the Level 3 halt.

[23] The Exchange anticipates that the other national securities exchanges and FINRA will also file similar proposals to amend their MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally. *See e.g.,* Securities Exchange Act Release No. 88004 (January 17, 2020), 85 FR 3992 (January 23, 2020) (SR–NASDAQ–2020–003).

[24] Presently, the Exchange's equities trading day ends at 5:00 p.m. ET. *See* IEX Rule 1.160(aa).

[25] *See* supra note 19.

rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the Pre-Market Session, which does not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by opening in the Pre-Market Session in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the Exchange at the beginning of the Pre-Market Session in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of Sections 6(b) [26] and 6(b)(5) of the Act,[27] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under IEX Rule 11.280 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 market decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day (*i.e.,* the beginning of the Pre-Market Session at 8 a.m. ET on IEX) will benefit investors, the national market system, Exchange Members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks.

Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under IEX Rule 11.280 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX 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 because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further the Exchange understands that FINRA and the other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.

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 [28] and Rule 19b–4(f)(6) thereunder.[29] 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 prior to 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 and Rule 19b–4(f)(6)(iii) thereunder.[30]

A proposed rule change filed under Rule 19b–4(f)(6) [31] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[32] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it approved a substantively similarly proposed rule change submitted by Nasdaq.[33] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[34]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [35] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78s(b)(3)(A)(iii).

[29] 17 CFR 240.19b–4(f)(6).

[30] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[31] 17 CFR 240.19b–4(f)(6).

[32] 17 CFR 240.19b–4(f)(6)(iii).

[33] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–003).

[34] 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).

[35] 15 U.S.C. 78s(b)(2)(B).

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–IEX–2020–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2020–04. This file number should be included in the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the IEX's principal office and on its internet website at *www.iextrading.com.* 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–IEX–2020–04 and should be submitted on or before April 14, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06118 Filed 3–23–20; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice:11080]

Designation of Amir Muhammad Sa'id Abdal-Rahman al-Mawla as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(a)(ii)(B) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, Executive Order 13284 of January 23, 2003, and Executive Order 13886 of September 9, 2019, I hereby determine that the person known as Amir Muhammad Sa'id Abdal-Rahman al-Mawla, also known as Hajji Abdallah, also known as Amir Muhammad Sa'id 'Abd-al-Rahman Muhammad al-Mula, also known as Muhammad Sa'id 'Abd-al-Rahman al-Mawla, also known as Abdullah Qardash, also known as Abu-'Abdullah Qardash, also known as Abu-'Umar al-Turkmani, also known as Al-Ustadh, also known as Ustadh Ahmad, also known as 'Abdul Amir Muhammad Sa'id Salbi, also known as Hajji Abdullah al-Afari, also known as al-Hajj Abdullah Qardash, also known as Abu Ibrahim al-Hashimi al-Qurashi, is a leader of the Islamic State of Iraq and Syria, a group whose property and interests in property are blocked pursuant to a prior determination by the Secretary of State pursuant to Executive Order 13224.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

[36] 17 CFR 200.30–3(a)(12).

Dated: March 2, 2020.

Michael R. Pompeo,

Secretary of State.

[FR Doc. 2020–06112 Filed 3–23–20; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0055]

Request for Comments on the Approval of a Previously Approved Information Collection: America's Marine Highway Program

AGENCY: Maritime Administration, DOT

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used by the Maritime Administration to evaluate and review applications being submitted for project designation. The review will assess factors such as project scope, impact, public benefit, environmental effect, offsetting costs, cost to the government (if any), the likelihood of long-term self-supporting operations, and its relationship with Marine Highway Routes once designated. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before May 26, 2020.

ADDRESSES: You may submit comments [identified by Docket No. MARAD–2020–0055] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden

could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Timothy Pickering, 202–366–0704, Acting Director, Office of Ports & Waterways Planning, U.S. Department of Transportation, 1200 New Jersey Ave., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: America's Marine Highway Program.

OMB Control Number: 2133–0541.

Type of Request: Renewal of a previously approved collection.

Abstract: The Department of Transportation will solicit applications for Marine Highway Projects as specified in the America's Marine Highway Program Final Rule, MARAD–2010–0035, published in the **Federal Register** on April 9, 2010. These applications must comply with the requirements of the referenced America's Marine Highway Program Final Rule, and be submitted in accordance with the instructions contained in that Final Rule. Open season for Marine Highway Project applications is open through January 31, 2022.

Respondents: State, Local, or Tribal Government and Business or other for profit.

Affected Public: Vessel Operators.

Estimated Number of Respondents: 35.

Estimated Number of Responses: 35.

Estimated Hours per Response: 10.

Annual Estimated Total Annual Burden Hours: 350.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

Dated: March 18, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–06107 Filed 3–23–20; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL REGISTER

Vol. 85 Tuesday,
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Part II

Securities and Exchange Commission

17 CFR Parts 240, 242, and 249
Market Data Infrastructure; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240, 242, and 249

[Release No. 34–88216; File No. S7–03–20]

RIN 3235–AM61

Market Data Infrastructure

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (''Commission'' or ''SEC'') is proposing to amend 17 CFR 242, Rules 600 and 603 and to adopt new Rule 614 of Regulation National Market System (''Regulation NMS'') under the Securities Exchange Act of 1934 (''Exchange Act'') to update the national market system for the collection, consolidation, and dissemination of information with respect to quotations for and transactions in national market system (''NMS'') stocks (''NMS information''). Specifically, the Commission proposes to expand the content of NMS information that is required to be collected, consolidated, and disseminated as part of the national market system under Regulation NMS and proposes to amend the method by which such NMS information is collected, calculated, and disseminated by introducing a decentralized consolidation model where competing consolidators replace the exclusive securities information processors.

DATES: Comments should be received on or before May 26, 2020.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number S7–03–20 on the subject line.

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–03–20. This file number should be included on the subject line if email is used. To help us 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/proposed.shtml*). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Kelly Riley, Senior Special Counsel, at (202) 551–6772; Ted Uliassi, Senior Special Counsel, at (202) 551–6095; Elizabeth C. Badawy, Senior Accountant, at (202) 551–5612; Leigh Duffy, Special Counsel, at (202) 551–5928; Yvonne Fraticelli, Special Counsel, at (202) 551–5654; Steve Kuan, Special Counsel, at (202) 551–5624; or Joshua Nimmo, Attorney-Advisor, at (202) 551–5452, Division of Trading and Markets, Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing to expand the content of NMS information that is required to be collected, consolidated, and disseminated as part of the national market system under Regulation NMS by proposing several new defined terms under Rule 600 of Regulation NMS, including ''consolidated market data,'' ''core data,'' ''regulatory data,'' ''administrative data,'' and ''exchange-specific program data.'' To implement the decentralized consolidation model, the Commission is proposing to amend Rule 603 under Regulation NMS to remove the requirement that all consolidated information for individual NMS stocks be disseminated through a single plan processor and to require each national securities exchange and national securities association to make available its NMS information in the same manner and using the same methods, including all methods of access and the same format, as the exchange or association makes available any quotation or transaction information for NMS stocks to any person. In addition, the Commission is proposing to add new Rule 614 and a new Form CC to govern the registration and responsibilities of competing consolidators. Further, the Commission is proposing that the effective national market system plan(s) for NMS stocks be amended to reflect the decentralized consolidation model. Finally, the Commission is proposing to amend Regulation SCI to expand the definition of ''SCI entities'' to include competing consolidators.

In particular, the Commission is proposing: (1) Amendments to Rule 600 [17 CFR 242.600] to add new definitions of ''administrative data,'' ''auction information,'' ''competing consolidator,'' ''consolidated market data,'' ''core data,'' ''depth of book data,'' ''exchange-specific program data,'' ''primary listing exchange,'' ''regulatory data,'' ''round lot,'' and ''self-aggregator;'' (2) amendments to Rule 603 [17 CFR 242.603] to require national securities exchanges and national securities associations to make available NMS information to competing consolidators and self-aggregators and to remove the requirement that all consolidated information for individual NMS stocks be disseminated through a single plan processor; (3) adoption of Rule 614 [17 CFR 242.614] and Form CC to require registration of competing consolidators; (4) that the participants to the effective national market system plan(s) relating to NMS stocks amend such plan(s) to reflect the definition of ''consolidated market data'' and the implementation of a decentralized consolidation model; (5) amendments to Rule 1000 [17 CFR 242.1000] to include competing consolidators in the definition of ''SCI entities;'' and (6) conforming changes and updating cross-references in Rule 201(a)(3) [17 CFR 242.201(a)(3)], Rule 201(b)(1)(ii) [17 CFR 242.201(b)(1)(ii)], Rule 201(b)(3) [17 CFR 242.201(b)(3)], Rule 600(b)(43) [17 CFR 242.600(b)(43)], Rule 600(b)(61) [17 CFR 242.600(b)(61)], and Rule 602 [17 CFR 242.602].

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I. Introduction

The widespread availability of NMS information [1] has been an essential element in the success of the U.S. securities markets. Congress recognized the importance of market information to the U.S. securities markets with the enactment of Section 11A of the Exchange Act. Section 11A(a)(2) of the Exchange Act [2] directs the Commission, having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets, to use its authority under the Exchange Act to facilitate the establishment of a national market system for securities in accordance with the Congressional findings and objectives set forth in Section 11A(a)(1) of the Exchange Act.[3] Among the findings and objectives in Section 11A(a)(1) are that ''[n]ew data processing and communications techniques create the opportunity for more efficient and effective market operations'' [4] and ''[i]t is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure . . . the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities . . . '' [5]

As discussed below, the Commission exercised its authority under Section 11A of the Exchange Act through the adoption of a series of rules that have been incorporated into Regulation NMS. Those rules address both the content of, and the means by which, NMS information is collected, consolidated, and disseminated.[6] In particular, Section 11A(c)(1)(B) of the Exchange Act authorizes the Commission to prescribe rules, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act, that ''assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in such securities and the fairness and usefulness of the form and content of such information.'' [7] Among other

[1] *See infra* Section II.A for a discussion of the NMS information that is consolidated and disseminated in the U.S. securities markets.

[2] 15 U.S.C. 78k–1(a)(2).

[3] 15 U.S.C. 78k–1(a)(1).

[4] 15 U.S.C. 78k–1(a)(1)(B).

[5] 15 U.S.C. 78k–1(a)(1)(C). The Senate Report for the enactment of Section 11A stated that ''it is critical for those who trade to have access to accurate, up-to-the-second information as to the prices at which transactions in particular securities are taking place (*i.e.,* last sale reports) and the prices at which other traders have expressed their willingness to buy or sell (*i.e.,* quotations).'' S. Rep. No. 94–75 at 8 (1975) (''Senate Report''). The Senate Report continued that ''[f]or this reason, communications systems designed to provide automated dissemination of last sale and quotation information with respect to securities will form the heart of the national market system.'' *Id.* at 6.

[6] *See* 17 CFR 242.601–603; *infra* Section II.B.

[7] *See* 15 U.S.C. 78k–1(c)(1)(B); Senate Report, *supra* note 5, at 189 (''Examples of the types of subjects as to which the SEC would have the

Continued

things, the Commission required the self-regulatory organizations (''SROs'') to act jointly pursuant to NMS plans [8] to disseminate, through a single plan processor, a consolidated national best bid and national best offer, along with last sale data, for each NMS stock.[9] While the Commission has periodically revised certain of its NMS rules with the goal of ensuring that the regulatory framework continues to fulfill the goals of Section 11A of the Exchange Act,[10] the Commission has not significantly updated the rules that govern the content and distribution of NMS information since their initial implementation in the late 1970s.

The widespread availability of timely market information promotes fair and efficient markets and facilitates the ability of brokers and dealers to provide best execution to their customers.[11] The structure of the equity markets has changed dramatically since the Commission adopted the rules now known as Regulation NMS in 2005 and approved the three existing Equity Data Plans under Rule 608 [12] of Regulation NMS.[13] In 2005, a substantial amount of trading was conducted on relatively slow manual markets, and for any given stock, concentrated on its listing exchange. Today, the U.S. equity markets have evolved into high-speed, latency-sensitive electronic markets where trading is dispersed among a wide range of competing market centers [14] and even small degrees of latency affect trading strategies.[15] Sophisticated order routing algorithms dependent on low-latency, high-quality market information are widely used to execute securities transactions.[16] Despite the evolution of latency-sensitive markets, the provision of NMS information that is centrally consolidated and disseminated by the Equity Data Plans is meaningfully slower than certain proprietary market data products distributed by the exchanges.[17] Today, the exchanges sell

authority to promulgate rules under these provisions include: The hours of operation of any type or quotation system, trading halts, what and how information is displayed and qualifications for the securities to be included on any tape or within any quotation system.'').

[8] On January 8, 2020, the Commission issued a notice of proposed order directing the SROs to submit a new, single NMS plan for NMS stocks (''New Consolidated Data Plan''). *See* Securities Exchange Act Release No. 87906 (Jan. 8, 2020), 85 FR 2164 (Jan. 14, 2020) (''Proposed Governance Order''). The existing NMS plans for NMS stocks are: (1) The Consolidated Trade Association (''CTA'') Plan; (2) the Consolidated Quotation (''CQ'') Plan; and (3) the Nasdaq Unlisted Trading Privileges (''Nasdaq UTP'') Plan (collectively the ''Equity Data Plans''). *See infra* note 13 and Section II.A. The Commission is proposing provisions in new Rule 614 that would require the participants to amend the effective national market system plan(s) for NMS stocks. *See infra* Section IV.B.4. If adopted, the proposed amendments would apply to any effective national market system plan for NMS stocks. In response to the Proposed Governance Order, the NYSE submitted a comment letter that also discussed a number of market structure issues that are addressed in this release (*e.g.,* expanding SIP data content and modernizing SIP data delivery such as through a potential competing consolidator model). *See* Letter from Elizabeth K. King, Chief Regulatory Officer, ICE, and General Counsel and Corporate Secretary, NYSE, to Vanessa Countryman, Secretary, Commission, 5 (Feb. 5, 2020) (''NYSE Governance Letter''). As with various other comments referenced herein, including, without limitation, comments received in connection with the Roundtable on Market Data and Market Access, *see infra* note 17, the NYSE Governance Letter was not provided with reference to the specific proposals discussed in this release. To the extent that the NYSE or other commenters wish to modify or supplement their prior comments to reflect the particulars of the proposals discussed herein, the Commission welcomes such comments.

[9] *See* Exchange Act Rule 11Aa3–1 (renumbered and renamed as Exchange Act Rule 601, Dissemination of transaction reports and last sale data with respect to transactions in NMS stocks); Exchange Act Rule 11Ac1–1 (renumbered and renamed as Exchange Act Rule 602, Dissemination of quotations in NMS securities); Exchange Act Rule 11Ac1–2 (renumbered and renamed as Exchange Act Rule 603, Distribution, consolidation, and display of information with respect to quotations for and transactions in NMS stocks.).

[10] *See, e.g.,* Securities Exchange Act Release Nos. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release''); 84528 (Nov. 2, 2018), 83 FR 58338 (Nov. 19, 2018) (adopting amendments to Rule 606 to require additional disclosures by broker-dealers to customers regarding the handling of their orders).

[11] Section 11A(a)(1) of the Exchange Act, 15 U.S.C. 78k–1(a)(1). *See also* Senate Report *supra* note 5, at 8; Securities Exchange Act Release No. 42208 (Dec. 9, 1999), 64 FR 70613, 70614 (Dec. 17, 1999) (''Market Information Concept Release''); Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3593, 3600 (Jan. 21, 2010) (''Equity Market Structure Concept Release'').

[12] 17 CFR 242.608.

[13] The Equity Data Plans are effective national market system plans as defined in Rule 600(b)(22) for NMS stocks. *See* Second Restatement of the Plan Submitted to the Securities and Exchange Commission Pursuant to Rule 11Aa3–1 under the Securities Exchange Act of 1934, composite as of Dec. 6, 2019, *available at https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/CTA_Plan_Composite_as_of_December_6_2019.pdf*; Restatement of Plan Submitted to the Securities and Exchange Commission Pursuant to Rule 11Ac1–1 under the Securities Exchange Act of 1934, composite as of Dec. 6, 2019, *available at https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/CQ_Plan_Composite_as_of_December_6_2019.pdf*; Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis, *available at http://www.utpplan.com/DOC/Nasdaq-UTPPlan_after_46th_Amendment-Excluding_21st_36th_38th_42nd_44th_45th_Amendments.pdf*; Proposed Governance Order, *supra* note 8.

[14] Rule 600(b)(38) defines a market center as ''any exchange market maker, OTC market maker, alternative trading system, national securities exchange, or national securities association.'' 17 CFR 242.600(b)(38).

[15] *See* Eric Budish, et al., Will the Market Fix the Market? A Theory of Stock Exchange Competition and Innovation, University of Chicago, Becker Friedman Institute for Economics Working Paper No. 2019–72 (May 2019), *available at* SSRN: *https://ssrn.com/abstract=3391461*; Andriy Shkilko and Konstantin Sokolov, Every Cloud Has a Silver Lining: Fast Trading, Microwave Connectivity and Trading Costs (Apr. 2019), *available at https://ssrn.com/abstract=2848562*; Equity Market Structure Concept Release, *supra* note 11 (''NYSE-listed stocks were traded primarily on the floor of the NYSE in a manual fashion until October 2006. At that time, NYSE began to offer fully automated access to its displayed quotations.''). In contrast to NYSE, stocks on the Nasdaq Stock Market LLC (''Nasdaq'') traded in a highly automated fashion at many different trading centers following the introduction of SuperMontage in 2002. *See* Securities Exchange Act Release No. 46429 (Aug. 29, 2002), 67 FR 56862 (Sept. 5, 2002); Steven Quirk, Senior Vice President, Trader Group, TD Ameritrade, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, Hearing on ''Conflicts of Interest, Investor Loss of Confidence, and High Speed Trading in U.S. Stock Markets'' (June 17, 2014), *available at https://www.hsgac.senate.gov/imo/media/doc/STMT%20-%20Quirk%20-%20TD%20Ameritrade%20(June%2017%202014).pdf%20* (citing statistics that average execution speed has improved by 90% since 2004—from 7 seconds to 0.7 seconds in 2014). Today, trading speed is measured in microseconds and is moving towards nanoseconds. *See, e.g.,* Vera Sprothen, Trading Tech Accelerates Toward Speed of Light, Wall Street Journal (Aug. 8, 2016), *available at https://www.wsj.com/articles/trading-tech-accelerates-toward-speed-of-light-1470559173*; Alexander Osipovich, NYSE Aims to Speed Up Trading With Core Tech Upgrade, Wall Street Journal (Aug. 5, 2019), *available at https://www.wsj.com/articles/nyse-aims-to-speed-up-trading-with-core-tech-upgrade-11565002800*.

[16] *See, e.g.,* Equity Market Structure Concept Release, *supra* note 11; Eric Budish, et al., *supra* note 15; Andrew Morgan, The impact of high frequency trading on algorithms and smart order routing, Algorithmic Trading & Smart Order Routing, 3d. ed. (2009), *available at https://pdfs.semanticscholar.org/ba0b/5e952b27cc48513825cb7e4f6d15803e6973.pdf*.

[17] *See infra* Section II.A. In addition, as discussed more fully below, on October 25–26, 2018, the Division of Trading and Markets hosted roundtables to gather information on market data and market access. *See generally* Equity Market Structure Roundtables, Oct. 25–26, 2018: Roundtable on Market Data and Market Access, *https://www.sec.gov/spotlight/equity-market-structure-roundtables* (''Roundtable''). Transcripts for both days of the Roundtable are *available at https://www.sec.gov/spotlight/equity-market-structure-roundtables/roundtable-market-data-market-access-102518-transcript.pdf* (''Roundtable Day One Transcript'') and *https://www.sec.gov/spotlight/equity-market-structure-roundtables/roundtable-market-data-market-access-102618-transcript.pdf* (''Roundtable Day Two Transcript''). Panelists at the Roundtable noted that the geographical delays inherent in the nature of a centralized processor results in significant latencies between the Equity Data Plans' feeds and proprietary data feeds that cannot be eliminated in the current infrastructure. Roundtable Day One Transcript at 145 (Simon Emrich, Norges Bank Investment Management) (''And part of that, the most interesting part of the delay for me is really the location of the consolidator, the geographical delay that's introduced, and the data connection element to the consolidator. Right? So from our perspective, the latency of the consolidator itself, the consolidation

proprietary data products that are fast, low-latency products designed for automated trading systems and include content, such as depth of book [18] and order imbalance information for opening and closing auctions (''proprietary DOB products'') that are not provided under the Equity Data Plans.[19] The Commission believes that the content and operating model under which NMS information is collected, consolidated, and disseminated have not kept pace with technological and market developments and are no longer satisfying the needs of many investors.

Today, the dissemination of NMS information relies upon a centralized consolidation model, where the SROs provide certain NMS information for each NMS stock to an exclusive processor (''exclusive SIP'').[20] The exclusive SIP then consolidates this NMS information and makes it available to market participants.[21] Market participants also may independently consolidate NMS information by purchasing individual exchange proprietary market data products [22] and consolidating that information for their own use, or obtain NMS information that has been consolidated by a vendor that provides a data aggregation service. As discussed further below, proprietary DOB products collected through this decentralized consolidation model typically contain enhanced information compared to the market information provided through the Equity Data Plans, such as information about all orders on an individual exchange's order book.[23] Market participants also are able to consolidate and use the data obtained in this manner more quickly than market participants relying on NMS information provided through the Equity Data Plans.

As noted above, Section 11A of the Exchange Act specifically highlights the importance of making information with respect to quotations for and transactions in securities available to brokers, dealers, and investors in a prompt, accurate, reliable, and fair manner and directs the Commission to act in accordance with this finding. Accordingly, the Commission proposes to amend Regulation NMS to better achieve the goal of assuring ''the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities'' [24] that is prompt, accurate, reliable, and fair.[25] The Commission preliminarily believes that the proposals described herein would promote fair and efficient markets and would facilitate the best execution of investor orders, and reduce information asymmetries between market participants who currently rely on market data provided through the exclusive SIPs and those who purchase the proprietary market data products offered by the national securities exchanges.[26]

The proposed amendments include two key parts, and the Commission preliminarily believes that the proposals are complementary, but can be independently justified. First, the amendments would update the content of the information with respect to quotations for and transactions in NMS stocks that must be made available under Regulation NMS. In particular, the Commission proposes to expand the NMS information that is required to be collected, consolidated, and

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engine, the improvements that we've made are remarkable over the years. But it just doesn't measure the physical reality of the brokers that we're using.''); 148 (Michael Blaugrund, NYSE) (''[T]he method of transmission of that information and the timing of the aggregation of that information into a consolidated feed plays a role. As I think we all acknowledge, the aggregation time has improved dramatically. As we've seen that decline, it highlights the fact that the geographic latency becomes a more meaningful portion of the overall time line.''). *See also* Ivy Schmerken, Speeding Up the SIP Isn't Enough, Say Market Pros at Baruch Conference, InformationWeek: Wall Street & Technology (Oct. 17, 2014), *available at http://www.wallstreetandtech.com/infrastructure/speeding-up-the-sip-isnt-enough-say-market-pros-at-baruch-conference/d/d-id/1316724.html* (''Since the SIP is slower than proprietary data feeds that firms can obtain directly from exchanges, critics have said that the SIP enables 'latency arbitrage' between high-speed traders using fast data and those trading off of stale quotes from the consolidated feed.'').

[18] ''Depth of book,'' or ''DOB,'' refers to open buy and sell orders resting on a limit order book at prices away from the top of book (*i.e.,* orders to buy at prices that are below the best bid and orders to sell that are higher than the best offer).

[19] *See, e.g.,* Nasdaq, Data Products, *available at http://www.nasdaqtrader.com/Trader.aspx?id=DPSpecs* (last accessed Jan. 7, 2020) (describing low-latency DOB data products); NYSE, Real-Time Data, *available at https://www.nyse.com/market-data/real-time* (last accessed Jan. 7, 2020) (describing low-latency DOB data products); Cboe, Market Data Services: U.S. Equities, *available at https://markets.cboe.com/us/equities/market_data_services/* (last accessed Jan. 7, 2020) (describing low-latency DOB data products). Particularly when aggregated, proprietary DOB market data products provide a consolidated view of the market with greater content and lower latency. The exchanges also sell other data products that are limited in content, such as an exchange's top of book (''TOB'') quotation information and transaction information, that are designed largely for the non-automated segment of the market (*e.g.,* retail investors and wealth managers) that is less sensitive to latency (''proprietary TOB products''). Examples of such proprietary TOB products include NYSE BBO (*https://www.nyse.com/market-data/real-time/bbo*), NASDAQ Basic (*https://business.nasdaq.com/intel/GIS/nasdaq-basic.html*), and Cboe One Feed (*https://markets.cboe.com/us/equities/market_data_services/cboe_one*). NYSE BBO provides TOB data. Nasdaq Basic and Cboe One's Summary Feed provide TOB and last sale information. Nasdaq Basic also provides Nasdaq Opening and Closing Prices and other information, including Emergency Market Condition event messages, System Status, and trading halt information. Cboe One, however, also offers a Premium Feed that includes DOB data. Each of these products is sold separately by the relevant exchange group. *See* Letter from Matthew J. Billings, Managing Director, Market Data Strategy, TD Ameritrade, 5–8 (Oct. 24, 2018) (''TD Ameritrade Letter''), *available at https://www.sec.gov/comments/4-729/4729-4560068-176205.pdf* (stating that the lower cost of exchange TOB products, coupled with costs associated with the process to differentiate between retail professionals and non-professionals imposed by the Equity Data Plans, and associated audit risk, favors retail broker-dealer use of exchange TOB products).

[20] An ''exclusive processor'' is defined in Section 3(a)(22)(B) of the Exchange Act as ''any [SIP] or [SRO] which, directly or indirectly, engages on an exclusive basis on behalf of any national securities exchange or registered securities association, or any national securities exchange or registered securities association which engages on an exclusive basis on its own behalf, in collecting, processing, or preparing for distribution or publication any information with respect to (i) transactions or quotations on or effected or made by means of any facility of such exchange or (ii) quotations distributed or published by means of any electronic system operated or controlled by such association.'' 15 U.S.C. 78c(a)(22)(B). A securities information processor (''SIP'') is defined in Section 3(a)(22)(A) of the Exchange Act as ''any person engaged in the business of (i) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations for any security (other than an exempted security) or (ii) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.'' 15 U.S.C. 78c(a)(22)(A). *See infra* note 42 and accompanying text.

[21] *See* Rule 603(b) of Regulation NMS. Rule 603(b) provides that all information for an individual NMS stock must be disseminated through a single plan processor. 17 CFR 242.603(b). *See* Rule 600(b)(59), which defines a plan processor as ''any self-regulatory organization or securities information processor acting as an exclusive processor in connection with the development, implementation and/or operation of any facility contemplated by an effective national market system plan.'' 17 CFR 242.600(b)(59).

[22] *See infra* Section II.A (discussing proprietary DOB and proprietary TOB).

[23] *See supra* note 19.

[24] Section 11A(a)(1)(C)(iii), 15 U.S.C. 78k–1(a)(1)(C)(iii).

[25] Section 11A(c)(1)(B), 15 U.S.C. 78k–1(c)(1)(B). Section 11A(c)(1)(B) provides the Commission with the authority to prescribe rules and regulations as necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Exchange Act to ''assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in such securities and the fairness and usefulness of the form and content of such information.'' *Id.*

[26] *See* Section 11A(a)(1)(C), 15 U.S.C. 78k–1(a)(1)(C) (stating that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure ''fair competition among brokers and dealers,'' ''the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities,'' and ''the practicability of brokers executing investors' orders in the best market'').

disseminated under Regulation NMS to include: (1) Information about orders in sizes smaller than the current round lot size for certain higher priced stocks; [27] (2) information about certain orders that are outside of the best bid and best offer (*i.e.,* certain depth of book data); and (3) information about orders that are participating in opening, closing, and other auctions. The Commission preliminarily believes that enhancing the content of NMS information in this manner should help ensure that all market participants have ready access to that market information in order to facilitate participation in today's markets.

Second, the amendments introduce a decentralized consolidation model whereby competing consolidators would assume responsibility for the collection, consolidation, and dissemination functions currently performed by the exclusive SIPs.[28] To facilitate this decentralized consolidation model, the Commission proposes that each SRO would be required to make all of its market data that is necessary to generate consolidated market data (as proposed to be defined) directly available to two new categories of entities: (1) Competing consolidators and (2) self-aggregators. Competing consolidators would be either SROs or SIPs registered with the Commission pursuant to proposed Rule 614, and would be responsible for collecting, consolidating, and disseminating consolidated market data to the public. Self-aggregators would be brokers or dealers that elect to collect and generate consolidated market data for their own internal use.

Non-SRO competing consolidators would be required to register with the Commission.[29] All competing consolidators, SRO and non-SRO, would be subject to appropriate standards with respect to the promptness, accuracy, reliability, and fairness of their consolidated market data distribution. While self-aggregators would not be subject to a separate registration requirement, as registered broker-dealers, they would be subject to the full broker-dealer regulatory regime.[30] To support this proposed decentralized consolidation model, each SRO would be required to make all of its own data that is necessary to generate consolidated market data available to competing consolidators and self-aggregators directly from its data center, and in the same manner and using the same methods, including all methods of access and the same format, as it makes its proprietary market data products available to any market participant.

Under the proposed structure, the effective national market system plan(s) would continue to serve an important role in the national market system by, among other things, governing the SROs' provision of the data necessary to generate consolidated market data, including setting fees for the provision of such SRO data to competing consolidators and self-aggregators.[31] The Commission preliminarily believes that, by introducing competition and market forces into the collection, consolidation, and dissemination process, the decentralized consolidation model would help ensure that consolidated market data is delivered to market participants in a more timely, efficient, and cost-effective manner than the current centralized consolidation model.[32]

II. Current Market Data Infrastructure Under Regulation NMS and the Equity Data Plans

A. Consolidated Market Data and Proprietary Data

Today, in accordance with the centralized consolidation model, the SROs act jointly pursuant to the three Equity Data Plans to collect, consolidate, and publicly disseminate real-time, NMS information.[33] For each NMS stock, the SROs are required, pursuant to Regulation NMS and the Equity Data Plans, to provide certain quotation [34] and transaction [35] data to the designated exclusive SIP for each Equity Data Plan.[36] Each exclusive SIP collects, consolidates, and disseminates NMS information to the public on the consolidated tape, described below. The NMS information that is consolidated and made available under the Equity Data Plans generally includes: ''(1) The price, size, and exchange of the last sale; (2) each exchange's current highest bid and lowest offer, and the shares available at those prices; and (3) the national best bid and offer (*i.e.,* the highest bid and lowest offer currently available on any exchange).'' [37] In general, these data elements form what historically has commonly been referred to as ''core data.''

In addition to disseminating core data, the exclusive SIPs collect, calculate, and disseminate certain regulatory data, including information required by the NMS Plan to Address Extraordinary Market Volatility (''LULD Plan''),[38] information relating to regulatory halts and market-wide circuit breakers (''MWCBs''),[39] and information regarding short sale circuit breakers pursuant to Rule 201.[40] The exclusive SIPs also collect and disseminate other NMS stock data and disseminate certain administrative messages.[41] For purposes

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[27] *See* proposed Rule 600(b)(81) (defining ''round lot'' as 100 shares, 20 shares, 10 shares, 2 shares, or 1 share depending upon the prior calendar month's average closing price for each NMS stock).

[28] The Commission is proposing to include competing consolidators in the definition of ''SCI entities;'' therefore, competing consolidators would be subject to the requirements of Regulation SCI. *See* Rule 1000(a) of Regulation SCI, 17 CFR 242.1000(a). *See* Securities Exchange Act Release No. 73639 (Nov. 19, 2014), 79 FR 72252 (Dec. 5, 2014) (''Regulation SCI Adopting Release''). *See also infra* Section IV.B.2(f).

[29] As discussed further below, only those entities that are SIPs would be required to register with the Commission pursuant to proposed Rule 614 and proposed Form CC. SROs that wish to act as competing consolidators would not be required to register pursuant to proposed Rule 614 and proposed Form CC but would be required to comply with the competing consolidator obligations set forth in proposed Rule 614(d). *See infra* Section IV.B.

[30] *See infra* Section IV.B.3.

[31] *See* Proposed Governance Order, *supra* note 8.

[32] *See infra* Section IV.B.

[33] *See supra* note 13.

[34] *See* Rule 602 of Regulation NMS, 17 CFR 242.602.

[35] *See* Rule 601 of Regulation NMS, 17 CFR 242.601.

[36] Rule 603(b) of Regulation NMS provides that ''the dissemination of all consolidated information for an individual NMS stock'' shall be through a single plan processor (*i.e.,* exclusive SIP). 17 CFR 242.603(b).

[37] *See In the Matter of the Application of Bloomberg L.P.,* Securities Exchange Act Release No. 83755 at 3 (July 31, 2018) (''*Bloomberg Decision*''), *available at https://www.sec.gov/litigation/opinions/2018/34-83755.pdf*; *accord In the Matter of the Application of Sec. Indus. & Fin. Markets Ass'n for Review of Action Taken by Nyse Arca, Inc., & Nasdaq Stock Mkt. LLC,* Securities Exchange Act Release No. 84432 (Oct. 16, 2018) (''*In the Matter of the Application of SIFMA*'') (*citing NetCoalition* v. *SEC.,* 615 F.3d 525, 529 (DC Cir. 2010)); Securities Exchange Act Release No. 87193 (Oct. 1, 2019), 84 FR 54794, 54795 (Oct. 11, 2019) (''Effective on Filing Proposal'').

[38] *See* Securities Exchange Act Release Nos. 85623 (Apr. 11, 2019), 84 FR 16086 (Apr. 17, 2019) (approving LULD Plan on a permanent basis); 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (approving LULD Plan, as modified by Amendment No. 1, on a pilot basis); Limit Up Limit Down Plan: Overview, *available at http://www.luldplan.com/index.html* (last accessed Dec. 16, 2019).

[39] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129).

[40] *See* Rule 201(b)(3) of Regulation SHO, 17 CFR 242.201(b)(3).

[41] The exclusive SIPs also provide other data regarding NMS stocks pursuant to SRO rules that are described in the Equity Data Plans' technical specifications, such as data relating to retail liquidity programs, market and settlement conditions, and the financial condition of the issuer. In addition, the Nasdaq UTP SIP separately provides Over-the-Counter Bulletin Board (''OTCBB'') data, and the CTA Plan allows participants to use the CTA/CQ SIP to disseminate

of this release, these existing market data elements, together with the historical ''core data'' described above, are referred to as ''SIP data.''

The Equity Data Plans set the terms for the operation of the exclusive SIPs.[42] There are two exclusive SIPs, each of which is physically located in a different data center. The exclusive SIP for the CTA and CQ Plans, which covers Tape A (*i.e.,* securities listed on the New York Stock Exchange (''NYSE'')) and Tape B (*i.e.,* securities listed on exchanges other than NYSE or Nasdaq),[43] is located in Mahwah, New Jersey (''CTA/CQ SIP''), while the Nasdaq UTP Plan exclusive SIP, which covers Tape C (*i.e.,* Nasdaq-listed securities), is located in Carteret, New Jersey (''Nasdaq UTP SIP''). Tapes A, B, and C are commonly referred to as the ''consolidated tapes.''

The exchanges' primary data centers are in four different physical locations, namely Mahwah, Carteret, Secaucus, and Weehawken, New Jersey, and they all have back-up data centers in Chicago.[44] Broker-dealers may report transactions effected otherwise than on an exchange (*i.e.,* ''over-the-counter'' or ''OTC'') to trade reporting facilities (''TRFs''), which are facilities of FINRA. There are currently three active TRFs: FINRA/Nasdaq TRF in Carteret, FINRA/Nasdaq TRF in Chicago, and FINRA/NYSE TRF in Mahwah.[45]

With this centralized consolidation model, each exchange and FINRA must first transmit its quotation and transaction information [46] from its own data center to the appropriate exclusive SIP's data center for consolidation, at which point SIP data is then further transmitted to market data end-users, which are often located in other data centers. The SROs today typically transmit their market data through fiber optic cables to the exclusive SIPs and, in the case of the CTA/CQ SIP, through infrastructure owned and mandated by the NYSE.[47]

In addition to the provision of SIP data pursuant to the Equity Data Plans, the national securities exchanges separately sell their individual proprietary market data products, which include the SIP data elements as well as a variety of additional data elements.[48] As noted above, the proprietary DOB products are generally characterized as fast, low-latency products designed for automated trading systems that include additional content.[49] In addition to SIP data, proprietary DOB products typically include odd-lot quotations; orders at prices above and below the best prices (*i.e.,* depth of book data); and information about orders participating in auctions, including auction order imbalances.[50]

In addition to proprietary DOB products, the exchanges offer a variety of connectivity options, such as co-location at primary data centers, fiber optic connectivity, wireless connectivity, and point-of-presence connectivity at third-party data centers.[51] Typically, the data for proprietary DOB products is transmitted directly from each exchange to the data center of the subscriber, where the subscriber's broker-dealer or vendor (or the subscriber itself) privately may consolidate such data with the proprietary data of the other exchanges. Furthermore, for many market participants, proprietary data is transmitted using wireless connectivity (often provided by the exchanges), such as microwave or laser technology,[52] that allows faster data transmission than the fiber optic cables that are typically used by the exclusive SIPs for the purposes of transmitting SIP data. The exchanges charge fees for these proprietary data products,[53] as well as for each of their connectivity options for co-location (*e.g.,* physical ports, cross-connects, and field programmable gate array (''FPGA'') services) and for communications services providing connectivity between data centers (*e.g.,* microwave and fiber optics). In the context of the Division of Trading and Markets' Roundtable on Market Data and Market Access in October 2018, some market participants commented that, in their view, they need the more content-rich proprietary data feeds and low latency connectivity to provide best execution to their clients

last sale prices for corporate bonds and information about indices.

[42] *See supra* note 20. The exclusive SIPs are the plan processors for the Equity Data Plans. The Securities Industry Automation Corporation (''SIAC''), a wholly owned, indirect subsidiary of Intercontinental Exchange (''ICE''), of which the NYSE is also a subsidiary, is the plan processor for Tapes A and B; Nasdaq is the plan processor for Tape C.

[43] Tape B includes securities listed on exchanges other than NYSE or Nasdaq, including Cboe, NYSE Arca, and NYSE American.

[44] *See* NYSE Trader Update: NYSE and NYSE MKT Equity Emergency Procedures and New DR Plans (Sept. 9, 2016), *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_and_NYSE_MKT_DR_Trader_Update_Final.pdf*; UTP Plan Administration Data Policies (Oct. 2018), *available at http://www.utpplan.com/DOC/Datapolicies.pdf*; NYSE Chicago Disaster Recovery FAQs (July 2019), *available at https://www.nyse.com/publicdocs/nyse/markets/nyse-chicago/NYSE_Chicago_Disaster_Recovery_FAQs.pdf*; Cboe: US Equities/Options Connectivity Manual, Version 10.0.0 (Oct. 7, 2019), *available at https://cdn.cboe.com/resources/membership/US_Equities_Options_Connectivity_Manual.pdf*; Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41142, 41154 (June 23, 2016).

[45] *See* FINRA, Trade Reporting Facility (TRF), *available at https://www.finra.org/filing-reporting/trade-reporting-facility-trf* (last accessed Jan. 22, 2020). As of October 2019, the FINRA/Nasdaq TRF in Carteret handled approximately 30% of the share volume in OTC reported transactions. *See* Cboe Global Markets, U.S. Equities Market Volume Summary (month-to-date), *available at https://markets.cboe.com/us/equities/market_share/* (last accessed Oct. 21, 2019).

[46] *See supra* notes 34–35 and accompanying text.

[47] The NYSE operates the CTA/CQ SIP and has required that access to the CTA/CQ SIP be through the use of the NYSE's IP local area network. The NYSE represents that this access requirement was mandated due to the IP network's security, resiliency, and redundancy. *See* Securities Exchange Act Release No. 86865 (Sept. 4, 2019), 84 FR 47592, 47594, n.12 (Sept. 10, 2019) (''NYSE Low-Latency SIP Filing''). *See also* Consolidated Tape System (CTS) Participant Input Binary Specification, 60, *available at https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/CTS_BINARY_INPUT_SPECIFICATION.pdf,* and Consolidated Quotation System (CQS) Participant Input Binary Specification, 42, *available at https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/CQS_BINARY_INPUT_SPECIFICATION.pdf* (both depicting that the participants of those plans use ICE Data Services' Secure Financial Transaction Infrastructure (''SFTI'') network to transmit data to those exclusive SIPs). SFTI provides connectivity to the individual ICE and NYSE Group markets including NYSE and NYSE Arca equities. SFTI also provides connectivity to the data center for the CTA and CQ Plans in Mahwah.

[48] In adopting Regulation NMS in 2005, the Commission determined not to require that DOB information be included in core data, reasoning that investors who needed DOB information would be able to obtain such information from markets or third-party vendors. *See* Regulation NMS Adopting Release, *supra* note 10, at 37567. In making that determination, the Commission stated that this would be ''a competition-driven outcome [that] would benefit investors and the markets in general.'' *See id.* at 37530.

[49] In contrast, proprietary TOB products are generally limited in content, such as the exchange's top of book quotation information and transaction information and are designed largely for the non-automated segment of the market (*e.g.,* retail or non-professional investors and wealth managers that access market data visually). *But see* CBOE One Feed Specification, CBOE, *available at https://cdn.cboe.com/resources/membership/Cboe_US_Equities_Cboe_One_Feed_Specification.pdf* (highlighting that CBOE offers a non-automated product with a five-level depth of book option).

[50] *See, e.g.,* Nasdaq TotalView and NYSE Integrated.

[51] The exchanges have an inherent competitive advantage in the provision of connectivity services within exchange facilities, while connectivity options made available elsewhere, such as point-of-presence connectivity at third-party data centers, are fully competitive.

[52] *See, e.g.,* Nasdaq, Trade Management Services: Wireless Connectivity Suite, *available at http://n.nasdaq.com/WirelessConnectivitySuite* (last accessed Dec. 16, 2019); ICE Global Network, New Jersey Metro, *available at https://www.theice.com/market-data/connectivity-and-feeds/wireless/new-jersey-metro* (last accessed Dec. 16, 2019).

[53] *See, e.g.,* Letter to Vanessa Countryman, Secretary, Commission, from Robert Toomey, Managing Director and Associate General Counsel, SIFMA, 1–2 (Jan. 13, 2020) (stating that exchange market data products are ''complementary'' and result in ''not only supra-competitive prices, but supra-monopoly prices'').

and to competitively participate in the markets.[54]

B. NMS Regulatory Framework

The Commission exercised its authority under Section 11A of the Exchange Act to facilitate the collection, consolidation, and dissemination of NMS information primarily by adopting five rules under Regulation NMS.[55]

Rule 601 of Regulation NMS governs the dissemination of transaction reports[56] and last sale data[57] with respect to transactions in NMS stocks. In particular, Rule 601 requires each national securities exchange and association to file a transaction reporting plan with the Commission that, among other things, must specify the manner of collecting, processing, sequencing, making available, and disseminating transaction reports and last sale data.[58]

Rule 602 of Regulation NMS governs the dissemination of quotations in NMS securities. Specifically, under Rule 602 each national securities exchange and association is required to collect, process, and make available certain quotation data to vendors,[59] including the best bid, best offer,[60] quotation sizes,[61] and aggregate quotation sizes.[62]

Rule 603 of Regulation NMS governs the distribution, consolidation, and display of information with respect to quotations for and transactions in NMS stocks. Specifically, Rule 603(a)(1) requires any exclusive processor,[63] or any broker or dealer with respect to information for which it is the exclusive source, that distributes information with respect to quotations for or transactions in an NMS stock to a securities information processor[64] to do so on terms that are fair and reasonable. Rule 603(a)(2) requires any national securities exchange, national securities association, broker, or dealer that distributes information with respect to quotations for or transactions in an NMS stock to a securities information processor, broker, dealer, or other persons to do so on terms that are not unreasonably discriminatory.[65]

Rule 603(b) requires each national securities exchange and association to act jointly pursuant to one or more NMS plans to disseminate consolidated information, including an NBBO,[66] on quotations for and transactions in NMS stocks.[67] Further, the rule states that such plan or plans shall provide for the dissemination of all consolidated information for an individual NMS stock through a single plan processor.

Rule 608 of Regulation NMS governs the procedures for the filing and Commission approval of NMS plans and plan amendments. The Commission approved the Equity Data Plans under Rule 608. Finally, Rule 609 of Regulation NMS governs the registration of exclusive SIPs.

C. Other Regulatory Data

As noted above, certain regulatory data is required—pursuant to Commission and exchange rules and NMS plans—to be generated by primary listing exchanges and the exclusive SIPs and included in the current SIP data. The availability of this data is critical to allowing market participants to understand when and where permissible trading may occur.

1. Regulation SHO

Rule 201(b)(1)(i) of Regulation SHO[68] requires a trading center[69] to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order of a covered security[70] at a price that is less than or equal to the current national best bid,[71] if the price of that covered security decreases by 10% or more from the covered security's closing price, as determined by the listing market[72] for the covered security as of the end of regular trading hours[73] on the prior day (the ''Short Sale Circuit Breaker''). The rule requires that the trading center impose the Short Sale Circuit Breaker for the remainder of the day and the following day when a national best bid for the covered security is calculated and disseminated on a current and continuing basis by a ''plan processor''[74] pursuant to an effective national market system plan.[75]

[54] *See, e.g.,* Roundtable Day One Transcript at 27 (Doug Cifu, Virtu Financial). *See also* Sections III.C.1(c), III.C.2(c), and III.C.3(b).

[55] *See also supra* Section I (discussing Section 11A of the Exchange Act).

[56] Rule 600(b)(84) defines a transaction report as ''a report containing the price and volume associated with a transaction involving the purchase or sale of one or more round lots of a security.'' 17 CFR 242.600(b)(84).

[57] Rule 600(b)(34) defines last sale data as ''any price or volume data associated with a transaction.'' 17 CFR 242.600(b)(34).

[58] 17 CFR 242.601(a)(2).

[59] Rule 600(b)(87) defines a vendor as ''any securities information processor engaged in the business of disseminating transaction reports, last sale data, or quotations with respect to NMS securities to brokers, dealers, or investors on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker, or interrogation device.'' 17 CFR 242.600(b)(87).

[60] Rule 600(b)(8) defines best bid and best offer as ''the highest priced bid and the lowest priced offer.'' 17 CFR 242.600(b)(8).

[61] Under Rule 600(b)(67), quotation size, ''when used with respect to a responsible broker's or dealer's bid or offer for an NMS security, means: (i) [T]he number of shares (or units of trading) of that security which such responsible broker or dealer has specified, for purposes of dissemination to vendors, that it is willing to buy at the bid price or sell at the offer price comprising its bid or offer, as either principle or agent; or (ii) [i]n the event such responsible broker or dealer has not so specified, a normal unit of trading for that NMS security.'' 17 CFR 242.600(b)(67).

[62] Rule 600(b)(2) defines aggregate quotation size as ''the sum of the quotation sizes of all responsible brokers or dealers who have communicated on any national securities exchange bids or offers for an NMS security at the same price.'' 17 CFR 242.600(b)(2).

[63] *See supra* note 20.

[64] *Id.*

[65] *See* 17 CFR 242.603(a)(2). Proprietary data cannot be made available sooner than current core data is transmitted to the exclusive SIPs. *See* Regulation NMS Adopting Release, *supra* note 10, at 37567 (''[I]ndependently distributed data could not be made available on a more timely basis than core data is made available to a Network processor. Stated another way, adopted Rule 603(a) prohibits an SRO or broker-dealer from transmitting data to a vendor or user any sooner than it transmits the data to a Network processor.'').

[66] Rule 600(b)(43) defines national best bid and national best offer (''NBBO'') as ''with respect to quotations for an NMS security, the best bid and best offer for such security that are calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system plan . . .'' 17 CFR 242.600(b)(43).

[67] 17 CFR 242.603(b).

[68] 17 CFR 242.201(b)(1)(i).

[69] Rule 201(a)(9) states the term trading center shall have the same meaning as in 242.600(b)(82). 17 CFR 242.201(a)(9).

[70] Rule 201(a)(1) states the term covered security shall mean any NMS stock as defined in 242.600(b)(48). 17 CFR 242.201(a)(1).

[71] Rule 201(a)(4) states the term national best bid shall have the same meaning as in 242.600(b)(43). 17 CFR 242.201(a)(4).

[72] Rule 201(a)(3) states the term listing market shall have the same meaning as the term ''listing market'' as defined in the effective transaction reporting plan for the covered security. Rule 201(a)(2) states the term effective transaction reporting plan for a covered security shall have the same meaning as in 242.600(b)(23). 17 CFR 242.201(a)(2)–(3).

[73] Rule 201(a)(7) states the term regular trading hours shall have the same meaning as in 242.600(b)(68). 17 CFR 242.201(a)(7).

[74] Rule 201(a)(6) states the term plan processor shall have the same meaning as in 242.600(b)(59). 17 CFR 242.201(a)(6).

[75] Rule 201(c) provides an exception for a broker-dealer that has adopted and enforces its own such policies and procedures. More specifically, if such broker-dealer identifies a short sale order as being at a price above the current national best bid at the time of submission, such broker-dealer may mark the order as ''short exempt.'' However, such broker-dealer must establish, maintain, and enforce written policies and procedures reasonably designed to prevent incorrect identification of orders for purposes of the ''short exempt'' exception. Policies and procedures designed to create the appearance of technical compliance with Rule 201 but which otherwise are designed to circumvent, or assist others in circumventing, the Rule, would not be compliant. For example, any arrangement between market participants in which the execution price appears to be compliant with the Short Sale Circuit Breaker, but also includes a post-trade payment (*i.e.,* fee, commission, or other payment) that effectively renders the execution price non-compliant with the Short Sale Circuit Breaker, would not be consistent with the Rule's requirements. Further, in the Adopting Release for Rule 201, the Commission stated that, ''any conduct

Rule 201(b)(3) of Regulation SHO provides that the determination regarding whether the Short Sale Circuit Breaker has been triggered shall be made by the listing market for the covered security, and, if the Short Sale Circuit Breaker has been triggered, the listing market shall immediately notify the ''single plan processor'' (*i.e.,* the exclusive SIP responsible for consolidation of information for the covered security pursuant to Section 242.603(b)). The exclusive SIP must then disseminate this information.

2. Limit-Up Limit-Down Plan

The LULD Plan [76] sets forth procedures that provide for market-wide limit up-limit down (''LULD'') requirements to prevent trades in individual NMS stocks from occurring outside of specified price bands and reduce the negative impacts of extraordinary volatility in NMS stocks caused by momentary gaps in liquidity or erroneous trades. These price bands are coupled with the provision of trading pauses to accommodate more fundamental price moves.

Under the LULD Plan, the applicable exclusive SIP for an NMS stock is required to perform certain key functions, including: (1) Calculating the applicable price bands,[77] (2) disseminating flags identifying quotes that are not executable,[78] (3) disseminating flags identifying quotes that are in a ''limit state,'' [79] (4) disseminating trading pause messages received from the primary listing exchanges,[80] and (5) disseminating reopening auction information from the primary listing exchanges.[81]

3. Market-Wide Circuit Breakers

All of the equity exchanges and FINRA have adopted uniform rules, on a pilot basis, relating to MWCBs.[82] The purpose of an MWCB is to address extraordinary market-wide volatility by halting trading across the markets when price declines reach certain specified levels.[83] These levels are reached when the S&P 500 Index declines a specified percentage from the prior day's closing price. Currently, there are three thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A Level 1 or Level 2 market decline after 9:30 a.m. ET and before 3:25 p.m. ET would halt the equity and options markets for 15 minutes, while Level 1 and 2 declines at or after 3:25 p.m. ET would not halt trading. A Level 3 market decline at any time during the trading day would halt equity and options trading until the primary listing exchange opens the next trading day.

The primary listing exchanges and the exclusive SIPs work together to implement the MWCB rules. The CTA/CQ SIP monitors the S&P 500 Index throughout the trading day and would send a message to the primary listing exchanges and the Nasdaq UTP SIP in the event a Level 1, Level 2, or Level 3 circuit breaker was triggered. Upon receipt of such a message, the applicable primary listing exchange would impose a regulatory halt by sending the appropriate message to the applicable exclusive SIP, which would then disseminate the regulatory halt message to market participants. Trade resumption messages would be generated at the appropriate time by the primary listing exchange and similarly disseminated to market participants through the applicable exclusive SIP.

4. Odd-Lot Transaction Reports and Aggregated Odd-Lot Orders

As discussed further below, while Regulation NMS only requires NMS stock quotation and transaction data in round lots to be reported to the exclusive SIPs, SRO rules and the Equity Data Plans include some odd-lot information in the SIP data.[84] Pursuant to exchange rules, odd-lot quotations that, when aggregated, equal or exceed a round lot are reported to the exclusive SIPs as round lots.[85] Moreover, the Equity Data Plans were amended in 2013 to include odd-lot transaction reports in the SIP data.[86]

III. Proposed Enhancements to NMS Information

A. Introduction

The Commission is proposing to expand the content of the NMS information that would be required to be collected, consolidated, and disseminated under the rules of the national market system to better meet the needs of today's investors and other market participants. Specifically, the Commission proposes to amend Regulation NMS by introducing, in Rule 600, new defined terms for ''consolidated market data,'' ''core data,'' ''regulatory data,'' ''administrative data,'' ''exchange-specific program data,'' ''round lot,'' ''depth of book data,'' and ''auction information'' and by amending the current definitions of ''national best bid and national best offer'' and ''protected

by trading centers, or other market participants, that facilitates short sales in violation of Rule 201 could also lead to liability for aiding and abetting or causing a violation of Regulation SHO, as well as potential liability under the anti-fraud and anti-manipulation provisions of the Federal securities laws, including Sections 9(a), 10(b), and 15(c) of the Exchange Act, and Rule 10b–5 thereunder.'' Securities Exchange Act Release No. 61595 (Feb. 26, 2010), 75 FR 11232, 11260 (Mar. 10, 2010).

[76] *See* Securities Exchange Act Release Nos. 85623, *supra* note 38; 67091, *supra* note 38.

[77] During regular trading hours for an NMS stock, the exclusive SIP for that stock uses a reference price, which it also calculates, to calculate and disseminate to the public a lower and upper price band. The reference price for each NMS stock equals the arithmetic mean price of eligible reported transactions for the NMS stock over the immediately preceding five-minute period (*see* LULD Plan Section V(A)(1)) and must remain in effect for at least 30 seconds. *See* LULD Plan Section V(A)(2). The exclusive SIP calculates a pro-forma reference price on a continuous basis during regular trading hours, and when that price has moved by 1% or more from the reference price currently in effect, the pro-forma reference price becomes the reference price, and the plan processor disseminates new price bands based on the new reference price. *See* LULD Plan Section V(A)(2). The price bands for an NMS stock are calculated by applying the appropriate percentage parameter for the stock, specified by the LULD Plan, to the stock's reference price, with the lower price band as a percentage parameter below the reference price and the upper price band as a percentage parameter above the reference price. *See* LULD Plan Section V(A)(1).

[78] When a national best bid is below the lower price band or a national best offer is above the upper price band for an NMS stock, the exclusive SIP is required to disseminate the national best bid or national best offer with an appropriate flag identifying it as non-executable. *See* LULD Plan Section VI(A)(2).

[79] When a national best bid is equal to the lower price band or a national best offer is equal to the upper price band for an NMS stock, the exclusive SIP is required to distribute the national best bid or national best offer with an appropriate flag identifying it as a ''Limit State Quotation.'' *See id.;* LULD Plan Section VI(B)(2).

[80] If trading for an NMS stock does not exit a limit state within 15 seconds of entry during regular trading hours, then the primary listing exchange is required to declare a trading pause in that NMS stock and notify the exclusive SIP. *See* LULD Plan Section VII(A)(1). The exclusive SIP is required to disseminate trading pause information to the public. *See* LULD Plan Section VII(A)(3).

[81] Five minutes after declaring a trading pause for an NMS stock, if the primary listing exchange has not declared a regulatory halt, the primary listing exchange is required to attempt to reopen trading using its established reopening procedures. The exclusive SIP publishes the following information that the primary listing exchange provides to the exclusive SIP in connection with such reopening: Auction reference price; auction collars; and number of extensions to the reopening auction. *See* LULD Plan Section VII(B)(1). In addition, the applicable exclusive SIP for an NMS stock is required to receive and disseminate to the public information from primary listing exchanges regarding their inability to reopen trading due to a systems or technology issue. Specifically, the primary listing exchange is required to notify the exclusive SIP if it is unable to reopen trading in an NMS stock due to a systems or technology issue and if it has not declared a regulatory halt. The exclusive SIP is required to disseminate this information to the public. *See* LULD Plan Section VII(B)(2).

[82] *See supra* note 39.

[83] *Id.*

[84] *See infra* Section III.C.1.

[85] *See infra* notes 159–160 and accompanying text.

[86] *See infra* notes 160–161 and accompanying text.

bid or protected offer.'' The Commission preliminarily believes that these amendments will enhance the availability and usefulness of the NMS information that is required to be provided under the rules of the national market system for a wide variety of market participants. The Commission also preliminarily believes that expanding the content of NMS information would help to reduce information asymmetries between market participants who rely upon current SIP data and those who purchase proprietary data feeds from the national securities exchanges.[87]

The Commission's objectives in expanding and modernizing the content of NMS information that would be collected, consolidated, and disseminated under the rules of the national market system reflect that different market participants and different trading applications have different needs for NMS information. For example, the needs of some retail investors that visually consume NMS information (*e.g.,* humans looking at quotes on a screen) differ from those of institutional trading systems that electronically consume NMS information (*e.g.,* algorithmic trading systems or smart order routers (''SORs'').[88] This proposal to expand and modernize the content of NMS information is not intended solely to meet the needs of a narrow segment of the NMS information market; rather, the proposal is intended to address the needs of a broad cross-section of market participants.[89] The Commission intends for the NMS information to promote both fair and efficient markets, be useful to a broad cross-section of market participants, reduce information asymmetries, and facilitate best execution.[90]

B. Proposed Definition of ''Consolidated Market Data''

The Commission is proposing to amend Rule 600(b) to add a definition of ''consolidated market data'' that would include information that is currently disseminated by the exclusive SIPs as well as additional new information. Specifically, under proposed Rule 600(b)(19), consolidated market data would be defined as the following data, consolidated across all national securities exchanges and national securities associations: (1) Core data; (2) regulatory data; (3) administrative data; (4) exchange-specific program data; and (5) additional regulatory, administrative, or exchange-specific program data elements defined as such pursuant to the effective national market system plan or plans required under Rule 603(b).

As discussed below, the Commission proposes to add definitions of the terms ''core data,'' ''regulatory data,'' ''administrative data,'' and ''exchange-specific program data.'' The proposed definition of core data would include those data elements that are currently considered core data [91] as well as reflect additional information that would be required to be collected, consolidated, and disseminated under Regulation NMS, including certain depth of book, odd-lot, and auction information, which would improve the usefulness of core data for market participants. The proposed definition of regulatory data would specify certain regulatory messages that must be provided under Regulation NMS, which would facilitate compliance with Commission, NMS plan, or SRO requirements. The proposed definition of administrative data would refer to the administrative or technical messages that are currently required by the Equity Data Plans, or their technical specifications, and would facilitate the efficient utilization of proposed consolidated market data. The proposed definition of ''exchange-specific program data'' would include information currently included in SIP data related to retail liquidity programs that certain exchanges have established, as well as information related to new programs that individual exchanges may develop in the future,[92] but only if the effective national market system plan or plans required under Rule 603(b) are amended to include data elements related to any such new programs in consolidated market data.[93]

Finally, the Commission proposes to include a provision that would allow for additional regulatory, administrative, or exchange-specific program data elements [94] to be included within ''consolidated market data'' pursuant to amendments to the effective national market system plan(s).[95] The Commission preliminarily believes that this provision would help to ensure that additional information in these specific categories may be proposed to be included in consolidated market data in the future in response to market and regulatory developments and that such additional information would be required to be made available by the SROs to competing consolidators and self-aggregators, and as a result, competing consolidators would be required to, among other things, calculate and generate consolidated market data that includes this additional information. The Commission preliminarily believes that new administrative, regulatory, and exchange-specific program data elements may emerge from time to time, and that the proposed definition of consolidated market data should provide flexibility for such data elements to be included by NMS plan amendment. This provision would also maintain the current practice whereby SIP data of this type can be expanded through the NMS plan amendment process.

National market system plans and amendments thereto must be filed with, and typically are not effective unless they are approved by, the Commission under Rule 608 of Regulation NMS.[96]

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[87] *See supra* note 26.

[88] SORs employ the use of algorithms (*e.g.,* by broker-dealers on behalf of a client) designed to optimally send parts of an order (child orders) to various market centers (*e.g.,* exchange and ATSs) so as to optimally access market liquidity while minimizing execution costs.

[89] This proposal is also not designed to expand the content of NMS information to meet all needs of all market participants; the proprietary data market, which includes information that is not included in the proposed definition of core data, is expected to continue to fulfill additional needs beyond those that are met by the proposed definition of core data.

[90] While this proposal is intended to facilitate best execution, the Commission is not specifying minimum data elements needed to achieve best execution.

[91] *See supra* note 37 and accompanying text.

[92] Any new exchange programs would have to be filed with the Commission pursuant to Section 19(b) of the Exchange Act, 15 U.S.C. 78s(b), and Rule 19b–4 thereunder, 17 CFR 240.19b–4.

[93] *See infra* Section III.F.

[94] Amendments to the proposed definition of core data would only be able to be made by the Commission. To the extent that there are changes in the national market system, such as, in the provision of trading services, that suggest that the definition of core data should be updated, the Commission could exercise its authority to propose amendments to the proposed definition. *See, e.g.,* Section 11A(c)(1)(B) of the Exchange Act which provides that the Commission shall prescribe rules as necessary or appropriate in the public interest, for the protection of investors or otherwise to assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to NMS information and the fairness and usefulness of the form and content of such information.

[95] Pursuant to Rule 608(a)(1), any two or more SROs, acting jointly, may propose an amendment to an NMS plan. 17 CFR 242.608(a)(1). The Equity Data Plans also have provisions regarding the proposal of amendments to the Plans, which currently require a vote of the Plans' operating committee. *See* CTA Plan, *supra* note 13, at Section IV(b)(i); CQ Plan *supra* note 13, at Section IV.(c)(i) of the CQ Plan; Nasdaq UTP Plan, *supra* note 13, at Sections IV.C.1.a. and XVI.

[96] A proposed NMS plan amendment may be put into effect upon filing if designated by the sponsors as: ''(i) Establishing or changing a fee or other charge collected on behalf of all of the sponsors and/or participants in connection with access to, or use of, any facility contemplated by the plan or amendment (including changes in any provision with respect to distribution of any net proceeds from such fees or other charges to the sponsors and/or participants); (ii) Concerned solely with the

Pursuant to Rule 608(b), the Commission would publish for comment an amendment to add new consolidated market data elements, and thereafter, the Commission would evaluate any such proposed amendment and approve it if the Commission finds the amendment is ''necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the [Exchange] Act.'' [97]

The Commission preliminarily believes that the proposed definition of consolidated market data, as well as the other definitions included therein, would, by expanding the NMS information that is required to be provided under the rules of the national market system, support more informed trading and investment decisions by market participants in today's markets and facilitate the best execution of customer orders by the full range of broker-dealers.[98] In addition, the proposed definition would be referenced in the amendments to Rule 603(b) and proposed Rule 614, both of which propose to implement the decentralized consolidation model.[99]

The Commission requests comment on the proposed definition of consolidated market data under proposed Rule 600(b)(19). Throughout this release, we request comment from the points of view of all interested parties. With regard to any comments, we note that such comments are of greatest assistance to our rulemaking initiative if accompanied by supporting data and analysis of the issues addressed in those comments.

In particular, the Commission solicits comment on the following:

1. Do commenters believe that the Commission should adopt a definition of consolidated market data? Why or why not? Should the Commission take an alternative approach? Why or why not?

2. Does the proposed definition of consolidated market data capture the market data that would be useful to market participants for trading and regulatory compliance purposes? Please explain. Does the proposed definition of consolidated market data include any market data that should not be included? Please explain. The Commission is seeking input from commenters on whether the proposed definition of consolidated market data should include additional market data or whether the definition should otherwise be modified.

3. Should the definition of consolidated market data be set forth in an effective national market system plan(s) instead of, or in addition to, Rule 600(b)? Please explain. Do commenters have views on the most appropriate process through which the content of proposed consolidated market data should be expanded or modified? Do commenters believe that the proposed definition of consolidated market data should include a provision stating that additional regulatory, administrative, or exchange-specific program data elements can be defined pursuant to the effective national market system plan or plans required under Section 242.603(b)? Please explain. Should the proposed definition of core data be able to be amended through the effective national market system plan process (for example, should the term ''core data'' be included in proposed Rule 600(b)(19)(v))? Why or why not? Do commenters believe that any data elements should not require an amendment to the effective national market system plan(s) to be added to consolidated market data? Please explain and describe what process would be appropriate for adding any such data elements.

C. Proposed Definition of ''Core Data''

Regulation NMS does not currently define core data. Rather, today, core data generally refers to the price, size, and exchange of the last sale; each exchange's highest bid and lowest offer (''BBO'') and the number of shares available at those prices; and the NBBO.[100]

The core data that is provided today by the exclusive SIPs is of considerable utility to some market participants for certain purposes.[101] However, it is of limited use to other market participants for other purposes (*e.g.,* as the primary data source for automated trading systems) because of its limited content. The Commission preliminarily believes that the content of current core data has not kept pace with market developments. For example, decimalization in 2001 improved prices and narrowed spreads but also reduced the size of the top of book liquidity that is displayed and disseminated as part of current core data.[102] Further, individual odd-lot quotations, especially for stocks with share prices that have risen substantially,[103] have become more important to market participants as odd-lot quotations can represent significant amounts of liquidity that are not reflected in current core data.[104] Finally, an increasing proportion of total trading volume is executed during opening and closing auctions, which are significant liquidity events every trading day, but important information about auctions is not included within current core data provided by the exclusive SIPs.[105]

Because the content of current core data does not reflect these important market developments,[106] many market participants state that they are unable to rely solely on SIP data to trade competitively and provide best execution to customer orders in today's markets.[107] The Commission preliminarily believes that the data that is required to be collected, consolidated, and disseminated under the rules of the national market system is no longer fulfilling the goals of Section 11A of the

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administration of the plan, or involving the governing or constituent documents relating to any person (other than a self-regulatory organization) authorized to implement or administer such plan on behalf of its sponsors; or (iii) Involving solely technical or ministerial matters.'' 17 CFR 242.608(b)(3). As stated above, the Commission has proposed amendments to this provision. Effective on Filing Proposal, *supra* note 37 (proposing to rescind the provision of Rule 608 that allows a proposed amendment to an effective national market system plan(s) to become effective upon filing if the proposed amendment establishes or changes a fee or other charge).

[97] 17 CFR 242.608(b)(2).

[98] As discussed below, the Commission is not requiring broker-dealers to subscribe to or utilize every component of proposed consolidated market data to meet their regulatory obligations. *See infra* notes 306–309 and accompanying text.

[99] *See infra* Sections IV.B.1 and IV.B.2(e)(ii).

[100] *See supra* note 37 and accompanying text.

[101] For example, current core data includes the NBBO, which is useful to market participants for informational purposes and to inform trading and investment decisions. *See, e.g.,* Roundtable Day One Transcript at 57 (Doug Cifu, Virtu Financial) (''. . . the SIP is an eyeball product.''); Roundtable Day One Transcript at 65 (Mehmet Kinak, T. Rowe Price) (''So the SIP for us is kind of what we look at. Obviously, investment decisions are probably made by eyeballs and looking at the SIP itself from either our Bloomberg or FactSet terminals.''). It is also used as a back-up for automated trading systems that otherwise rely on proprietary data feeds from the exchanges and to support less sophisticated automated trading systems. *See, e.g.,* Roundtable Day One Transcript at 140 (Mark Skalabrin, Redline Trading Solutions) (''the SIP . . . has been relegated to a backup feed, really. It's a fail-over to the real feed you need to do the job.'').

[102] *See infra* notes 276–279.

[103] *See infra* note 162.

[104] As explained below, odd-lot quotations are only reflected in SIP data to the extent that they are aggregated into round lots pursuant to exchange rules. *See infra* notes 157–158 and accompanying text.

[105] *See infra* notes 330–332.

[106] As discussed below, the existing centralized consolidation model for collecting, consolidating, and disseminating SIP data also has not kept pace with the needs of today's investors and market participants. *See infra* Section IV.A.

[107] *See* several of the Roundtable comments summarized below in Sections III.C.1, III.C.2, and III.C.3.

Exchange Act.[108] The Commission is proposing a definition of core data that would incorporate the information that is currently provided in SIP data as well as additional information, including quotation data for smaller-sized orders for higher-priced stocks, certain depth of book data, and additional auction information.[109] As explained below, the Commission preliminarily believes that each of the new elements of core data, as proposed, would enhance the usefulness of the content of the NMS information that is collected, consolidated, and disseminated under the rules of the national market system.[110]

The Commission is proposing to define core data in Rule 600(b) to include all of the elements that currently are referred to as core data,[111] as well as the following data elements that are not currently provided by the exclusive SIPs: (1) Quotation data for smaller-sized orders for higher-priced stocks (pursuant to a new definition of ''round lot''), (2) data on certain quotations below the best bid or above the best offer (pursuant to a new definition of ''depth of book data''), and (3) information about orders participating in auctions (pursuant to a new definition of ''auction information''). As discussed below, certain OTCBB and corporate bond and index data that are currently provided by the exclusive SIPs would not be included in the proposed definition of core data.[112] Further, as noted above, the proposed term core data is reflected in the proposed definition of consolidated market data, which is referenced in proposed Rule 603(b) and proposed Rule 614.[113]

Specifically, under proposed Rule 600(b)(20), core data would be defined as the following information with respect to quotations for and transactions in NMS stocks: (1) Quotation sizes; (2) aggregate quotation sizes; (3) best bid and best offer; (4) national best bid and national best offer; (5) protected bid and protected offer; (6) transaction reports; (7) last sale data; (8) odd-lot transaction data disseminated pursuant to the effective national market system plan or plans required under Rule 603(b) as of [date of Commission approval of this proposal]; (9) depth of book data; and (10) auction information. For purposes of the calculation and dissemination of core data by competing consolidators, and the calculation of core data by self-aggregators, the best bid and best offer, national best bid and national best offer, and depth of book data would include odd-lots that when aggregated are equal to or greater than a round lot, with such aggregation occurring across multiple prices and disseminated at the least aggressive price.[114] Protected quotations, however, would only include odd-lots at a single price that when aggregated are equal to or greater than 100 shares.[115]

Some of the components of the proposed definition of core data—namely, quotation sizes, aggregate quotation sizes, BBO, NBBO, protected quotations, transaction reports, last sale data, and odd-lot transaction data[116]—are already defined in Regulation NMS or are currently included in SIP data.[117] The Commission preliminarily believes that these data elements continue to be necessary and useful for informed market participation. This baseline information about the best quotations and recent transactions across the national market system provides the foundation of transparency and price discovery in the U.S. securities markets, and the Commission preliminarily believes investors and other market participants need it today to make informed trading and investment decisions.[118] Therefore, the Commission preliminarily believes that these data elements should be included in the definition of core data as proposed.

As discussed in detail below, the Commission is proposing to include certain depth of book data and auction information in the proposed definition of core data. Because of the dispersion of liquidity to prices away from the best bids and best offers[119] and the increasing proportion of orders that are executed during auctions,[120] the Commission preliminarily believes that market participants need depth of book data and auction information to fully participate in the markets and the information would facilitate best execution.[121] The Commission preliminarily believes that the proposed depth of book data and auction information would enhance the usefulness of proposed core data.

As discussed above, SIP data currently includes certain data that would not be included in the definition of core data under the Commission's proposed definition.[122] Currently, Nasdaq UTP Plan Level 1 subscribers can obtain OTCBB quotation and transaction feeds for unlisted stocks.[123] Similarly, the CTA Plan permits the dissemination of ''concurrent use'' data relating to corporate bonds and indexes.[124] This information would not be included in the proposed definitions of core data or consolidated market data. OTCBB stocks, corporate bonds, and

[108] *See supra* notes 2–5 and accompanying text.

[109] *See infra* Sections III.C.1–III.C.3 for detailed discussions of the proposed definitions of ''round lot,'' ''depth of book data,'' and ''auction information.''

[110] Section 11A(c)(1)(B) of the Exchange Act, 15 U.S.C. 78k–1(c)(1)(B).

[111] *See supra* note 37 and accompanying text.

[112] *See infra* notes 122–127 and accompanying text.

[113] As explained below, pursuant to Rule 603(b), as proposed to be amended, national securities exchanges and associations would be required to make available to competing consolidators and self-aggregators, as proposed to be defined, all data necessary to generate consolidated market data. *See infra* Section IV.B.1. Competing consolidators would be required to calculate and generate consolidated market data and make it available to subscribers. *See* proposed Rule 614(d).

[114] *See infra* notes 157–158 and accompanying text (discussing odd-lot aggregation).

[115] *Id.* A protected quotation is defined as ''a protected bid or a protected offer.'' *See* Rule 600(b)(62) of Regulation NMS, 17 CFR 242.600(b)(62). A protected bid or protected offer is defined as ''a quotation in an NMS stock that: (i) [i]s displayed by an automated trading center; (ii) [i]s disseminated pursuant to an effective national market system plan; and (iii) [i]s an automated quotation that is the best bid or best offer of a national securities exchange, the best bid or best offer of The Nasdaq Stock Market, Inc., or the best bid or best offer of a national securities association other than the best bid or best offer of The Nasdaq Stock Market, Inc.'' *See* Rule 600(b)(61) of Regulation NMS, 17 CFR 242.600(b)(61).

[116] *See infra* notes 159–161 and accompanying text (discussing the addition of odd-lot transaction data to SIP data through NMS plan amendments approved in 2013).

[117] As discussed below, some of these proposed data elements—namely, the BBO and NBBO—will be derived from smaller sized quotations as a result of the Commission's proposed definition of round lot, and the Commission is proposing amendments to the definitions of protected bid and protected offer and national best bid and offer to accommodate its proposed amendments to expand consolidated market data and implement a decentralized consolidation model with competing consolidators and self-aggregators.

In addition, today, the exclusive SIPs collect, consolidate, and disseminate protected quotations, which in almost all cases, are the best bid or best offer of a trading center. Accordingly, the NBBO today reflects protected quotations. As discussed below, the Commission is proposing to amend the definition of ''protected bid or protected offer'' to require that protected bids and protected offers be at least 100 shares. In addition, the Commission is proposing a new round lot size definition, which would be less than 100 shares for higher-priced NMS stocks. *See infra* Section III.C.1(d)(i). Accordingly, if adopted, there would be an increase in instances where the best bid or best offer and the NBBO would not be protected quotations. *See infra* Section III.C.1(d)(ii).

[118] *See supra* note 101.

[119] *See infra* notes 276–279 and accompanying text.

[120] *See infra* notes 330, 348 and accompanying text.

[121] *See infra* Sections III.C.2(d) and III.C.3(c).

[122] In addition, because this data does not fall under the proposed definitions of regulatory data or administrative data, it would not be part of proposed ''consolidated market data'' either.

[123] *See* Nasdaq UTP DataFeed Approval Request, *available at http://www.utpplan.com/datafeed_approval* (last accessed Sept. 8, 2019); *supra* note 41.

[124] *See* CTA Plan, *supra* note 13, at Section XIII; *supra* note 41.

indices are not NMS securities as defined in Regulation NMS [125] and, therefore, the Regulation NMS rules related to the collection, consolidation, and dissemination of information regarding NMS securities, and the NMS plan(s) required under Rule 603(b) for NMS stocks,[126] do not apply. Accordingly, this information is not included in the proposed definition of core data.[127]

However, the Commission's proposed definitions of core data and consolidated market data would not prohibit the independent provision of other types of market data by the SROs, and, as discussed below, under the decentralized consolidation model, competing consolidators would be permitted to collect data from the SROs and offer data products to subscribers that go beyond what is proposed to be defined as core data or consolidated market data. Therefore, the exclusion of OTCBB and concurrent use data from the proposed definitions of core data and consolidated market data does not preclude the provision of this data to market participants who wish to receive it.

Finally, the proposed definition of core data requires that the BBO, NBBO, and the proposed depth of book data include odd-lots that when aggregated are equal to or greater than a round lot, and that such aggregation would occur across multiple prices and be disseminated at the least aggressive price of all such aggregated odd-lots. Several national securities exchanges today have rules that provide for a similar odd-lot aggregation procedure for purposes of providing quotation data to the exclusive SIPs.[128] Although not currently required by Regulation NMS, odd-lot aggregation increases the amount of quotation data that is included in SIP data and provides transparency into trading interest would not otherwise have been represented in such data. The Commission preliminarily believes that this information is important and should uniformly be included in the proposed core data disseminated to investors and market participants.[129] In addition, for similar reasons, the Commission proposes to include odd-lots that, when aggregated, form a round lot for purposes of the new proposed definition of depth of book data.[130]

The Commission preliminarily believes, however, that the proposed definition of core data should require a different procedure with respect to the aggregation of odd-lots for purposes of protected quotations.[131] For the reasons discussed below, the scope of Rule 611 would not be extended to protected quotations of less than 100 shares.[132] The Commission preliminarily believes that aggregating odd-lots across multiple price points for purposes of determining protected quotations would effectively extend trade-through protection to quotes of less than 100 shares at different prices.[133] Therefore, the proposed definition of core data provides that, for purposes of the calculation and dissemination of proposed core data by competing consolidators, and the calculation of proposed core data by self-aggregators, protected quotations would only include odd-lots at a single price that, when aggregated, are equal to or greater than 100 shares. However, the Commission is seeking comment on whether and how odd-lots should be aggregated and the specific proposed core data elements to which such aggregation should apply.

The Commission requests comment on the proposed amendment to Rule 600(b)(20) to introduce a definition of core data. In particular, the Commission solicits comment on the following:

4. Do commenters believe Rule 600 should be amended to include a definition of core data? Why or why not?

5. Do commenters believe that the Commission's proposed definition of core data captures the key components of information with respect to quotations for and transactions in NMS stocks that are useful for participating in today's markets? Are there any other useful market data elements that should be included in the proposed definition? Does the proposed definition include any elements that are not useful for trading? Please explain.

6. Do commenters believe that there is sufficient demand for OTCBB, concurrent use, or other data currently provided by the exclusive SIPs that would not fall within the proposed definition of core data such that an independent market for the provision of this data would develop? Why or why not? Would the SROs or other entities that currently disseminate this data through the exclusive SIPs provide it through other means (*i.e.,* to competing consolidators or directly to interested market participants)? Please explain.

7. The Commission is proposing to include protected quotations in the proposed definition of core data. Do commenters believe that there is a need for a ''national protected best bid or offer'' analogous to the NBBO that would represent a snapshot of the single best protected bid and single best protected offer from among all the protected bids and offers of each SRO? Would this be a useful metric for competing consolidators to calculate and disseminate for market participants for either routing or regulatory compliance (*e.g.,* the order execution disclosures required under Rule 605) purposes? Would firms that intend to self-aggregate produce such a metric on their own? Please explain.

[125] ''NMS security'' is defined as ''any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.'' 17 CFR 242.600(b)(47). ''Effective transaction reporting plan'' is defined as ''any transaction reporting plan approved by the Commission pursuant to § 242.601.'' 17 CFR 242.600(b)(23). Rule 601 requires a transaction reporting plan to be filed and approved pursuant to Rule 608 and to specify ''[t]he listed equity and Nasdaq securities or classes of such securities for which transaction reports shall be required by the plan.'' 17 CFR 242.601(a)(2). Therefore, OTCBB securities are not NMS securities.

[126] ''NMS stock'' is defined as ''any NMS security other than an option.'' 17 CFR 242.600(b)(48). *See also* 17 CFR 242.600(b)(47) (defining NMS security).

[127] One commenter suggested that this ''extraneous'' data should be removed from the exclusive SIPs. *See* Nasdaq, Total Markets: A Blueprint for a Better Tomorrow, 18 (''Nasdaq Total Markets Report''), *available at https://www.nasdaq.com/docs/Nasdaq_TotalMarkets_2019_2.pdf.*

[128] *See infra* note 157 and accompanying text.

[129] As discussed below, SROs may make the data necessary to generate consolidated market data available to competing consolidators and self-aggregators through their existing proprietary data products. *See infra* Section IV.B.1. Accordingly, any odd-lot quotations that are aggregated in an SRO's existing proprietary data products would be required to be aggregated in a manner consistent with the method set forth in the proposed definition of core data. *See also* proposed Rule 603(b). However, self-aggregators would only be required to aggregate odd-lots as prescribed in Rule 600(b)(20) to the extent that generating a particular component of proposed core data is necessary for that self-aggregator to comply with applicable regulatory requirements. For example, to the extent that a self-aggregator's activities require the self-aggregator to generate the NBBO, the self-aggregator shall do so as described in Rule 600(b)(20).

[130] Today, odd-lots are only aggregated into round lots for purposes of providing an exchange's best bids and offers to the exclusive SIPs. *See infra* note 157.

[131] *See supra* note 115 for the definition of ''protected quotation.'' Odd-lot quotations are not protected quotations under Rule 611. However, as explained below, many exchanges, pursuant to their own rules, aggregate odd-lots across multiple price points into round lots for purposes of providing protected quotations to the exclusive SIPs. *See infra* notes 157–158 and accompanying text. Although not required by Rule 611 or contemplated upon adoption of Regulation NMS, this has become the prevailing practice. The odd-lot aggregation methodology set forth in the Commission's proposed definition of core data would modify this practice. *See infra* Section VI.C.1(c)(i).

[132] *See infra* Section III.C.1(d)(ii).

[133] *See infra* Section III.C.1(d)(ii) for a discussion of the proposed changes to protected bid and protected offer.

1. Round Lot Size

Today, SIP data includes quotation information in round lots and transaction information in both round lots and odd-lots. Market participants interested in quotation data for individual odd-lot orders must purchase it from exchange proprietary feeds. As share prices for many widely-held stocks have risen, individual odd-lot orders now often represent economically significant trading opportunities at prices that are better than the prices of displayed and disseminated round lots.[134] Accordingly, information about individual odd-lot orders has gained increased importance with investors and market participants, and some have suggested that odd-lot orders should be included in SIP data.[135]

The Commission is proposing to include certain information about quotations that are currently defined as odd-lots [136] in proposed core data by introducing a tiered definition of the term ''round lot.'' As proposed, the definition of round lot would assign different round lot sizes to individual NMS stocks depending upon their stock price. The Commission preliminarily believes this would improve the usefulness of proposed consolidated market data, promote fair competition,[137] and, like the addition of odd-lot transaction data to SIP data, would provide important information to investors and other market participants that would enhance transparency and price discovery.[138] Moreover, since odd-lot quotes often represent opportunities to trade at prices that are superior to the prices disseminated by the Equity Data Plans,[139] the inclusion of more of these quotes in proposed core data would facilitate the best execution analyses of broker-dealers who do not subscribe to proprietary data feeds that include all odd-lot information.[140] Further, it would facilitate the ability of investors to use proposed core data to verify that their broker-dealers are providing best execution by providing investors with additional information on the pricing of smaller-sized orders.

(a) Regulatory Background

Round lot, though not defined in the Exchange Act or Regulation NMS, typically refers to orders or quotes for 100 shares or multiples thereof. Exchange rules typically define a round lot as 100 shares, but they also allow the exchange discretion to define it otherwise.[141] The technical specifications for the Equity Data Plans provide similar definitions. For example, the CTA Plan defines round lot as ''[t]ypically 100 shares of stock or any number of shares that is a multiple of 100 (*i.e.,* 100, 600, 1,600, etc.).'' [142] The exclusive SIP feeds also disseminate quotation and transaction information for stocks that have a round lot size of 10 or 1.[143]

Regulation NMS defines ''odd-lot'' as ''an order for the purchase or sale of an NMS stock in an amount less than a round lot.'' [144] Exchange definitions of odd-lot are similar, as is the definition of odd-lot in the technical specifications for the CTA Plan.[145]

Despite the absence of a round lot definition, other key defined terms in Regulation NMS—such as ''bid or offer,'' ''best bid and best offer,'' and ''quotation''—refer, directly or indirectly, to round lot. The effect of these references to round lot is that odd-lot quotation information is not currently collected or disseminated under Regulation NMS.[146] For example, Rule 601 refers to ''transaction reports,'' [147] the definition of which refers to round lot.[148] Rule 602 refers to ''bids'' and ''offers,'' [149] the definition of which also refer to round lot.[150] Rule 603 refers to a ''national best bid and national best offer,'' [151] which ultimately refers back to round lot.[152] Rules 610 (access to quotations) [153] and 611 (order protection rule) [154] do not apply to odd-lot orders. Rule 604 (display of customer limit orders) also refers to bids and offers [155] and specifically excludes odd-lot orders.[156]

Several exchanges, however, pursuant to their own rules, aggregate odd-lot orders into round lots and report such aggregated odd-lot orders as quotation information to the exclusive SIPs. Exchange rules specify how the

[134] *See infra* note 166 and accompanying text, and *infra* text accompanying notes 166–170 for staff analysis of odd-lot activity for the top 500 securities by dollar volume.

[135] *See infra* notes 170–177.

[136] Rule 600(b)(51) defines odd-lot as ''an order for the purchase or sale of an NMS stock in an amount less than a round lot.''

[137] *See* 15 U.S.C. 78k–1(a)(1)(C)(ii) (''The Congress finds that . . . [i]t is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure . . . fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets.'').

[138] *See infra* notes 159–160 and accompanying text.

[139] *See infra* notes 166–170 and accompanying text.

[140] Statements made by market participants suggest that a significant number of broker-dealers do not subscribe to all proprietary market data products. *See* Roundtable Day One Transcript at 178 (James Brooks, ICE Data Services) (''[R]oughly half of the global investment banks take the most comprehensive New York Stock Exchange order-by-order feed, the other half do not.''); Roundtable Day One Transcript at 181 (Michael Friedman, Trillium Management) (''[T]he big fish . . . are the major consumers of depth-of-book data. I think there was some evidence . . . that there were only 50 to 100 firms, period who buy all of the depth-of-book feeds.'').

[141] *See, e.g.,* NYSE Rule 55 (''Securities traded on the Exchange shall be quoted in round lots (generally 100 shares), except that in the case of certain stocks designated by the Exchange the round lot shall be such lesser number of shares as may be determined by the Exchange, with respect to each stock so designated.''); Nasdaq Rule 5005(a)(39) ('''Round Lot' or 'Normal Unit of Trading' means 100 shares of a security unless, with respect to a particular security, Nasdaq determines that a normal unit of trading shall constitute other than 100 shares.''). According to NYSE Trade and Quote (''TAQ'') Data, as of August 2019, twelve stocks, all of which are listed on NYSE or NYSE American, had a round lot size other than 100. Ten stocks had a round lot of ten and two stocks had a round lot of one.

[142] Consolidated Tape System, Multicast Output Binary Specification, 85 (May 8, 2018), *available at https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/CTS_BINARY_OUTPUT_SPECIFICATION.pdf.* The technical specifications for the Nasdaq UTP Plan note that ''[f]or most NASDAQ issues, the round lot size is 100 shares.'' UTP Data Feed Services Specification, 22, *available at http://www.utpplan.com/DOC/UtpBinaryOutputSpec.pdf* (last accessed Jan. 7, 2020).

[143] *See supra* note 141.

[144] 17 CFR 242.600(b)(51).

[145] *See, e.g.,* Cboe BZX Rule 11.10 (''One hundred (100) shares shall constitute a 'round lot,' any amount less than 100 shares shall constitute an 'odd lot,' and any amount greater than 100 shares that is not a multiple of a round lot shall constitute a 'mixed lot.' ''); Consolidated Tape System, Multicast Output Binary Specification, 84 (May 8, 2018), *available at https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/CTS_BINARY_OUTPUT_SPECIFICATION.pdf* (defining ''odd lot'' as ''[a]n order amount for a security that is less than the normal unit of trading for that particular asset. Odd lots are considered to be anything less than the standard units of trade of 1, 10 or 100 shares.'').

[146] The Commission's proposal to add a definition of round lot will result in the inclusion of additional quotation data for smaller-sized orders in proposed core data, and, as discussed below in Section III.C.1(d)(i), will also affect the firm quote requirements of Rule 602(b), the customer limit order display requirements of Rule 604, the order execution disclosures required under Rule 605, the requirements under Rule 610(c) regarding fees for accessing quotations, and the Short Sale Circuit Breaker requirements of Rule 201. As discussed below in Section III.C.1(d)(ii), the Commission is also proposing certain amendments to the definition of ''protected bid or protected offer'' so that the scope of the order protection requirements of Rule 611 and the locked and crossed market prevention requirements of Rule 610(c) are not extended to the proposed smaller round lot sizes.

[147] *See* Rule 601, 17 CFR 242.601.

[148] *See* Rule 600(b)(84), 17 CFR 242.600(b)(84).

[149] *See* Rule 602, 17 CFR 242.602.

[150] *See* Rule 600(b)(9), 17 CFR 242.600(b)(9).

[151] *See* Rule 603, 17 CFR 242.603.

[152] *See* Rule 600(b)(43), 17 CFR 242.600(b)(43); Rule 600(b)(9), 17 CFR 242.600(b)(9).

[153] *See* Rule 610, 17 CFR 242.610.

[154] *See* Rule 611, 17 CFR 242.611.

[155] *See* Rule 604, 17 CFR 242.604.

[156] *See* Rule 604(b)(3), 17 CFR 242.604(b)(3).

aggregation process works in different terms and with different levels of specificity,[157] but many exchanges aggregate odd-lots across multiple prices and provide them to the exclusive SIPs at the least aggressive price if the combined odd-lot interest is equal to or greater than a round lot.[158]

In 2013, the participants to the Equity Data Plans filed proposed amendments to the Plans to add odd-lot transactions to SIP data.[159] In support of the proposed amendments, the participants to the Equity Data Plans noted that ''odd-lot transactions account for a not insignificant percentage of trading volume, [and] the Participants have determined that including odd-lot transactions on the consolidated tape . . . would add post-trade transparency to the marketplace.'' [160] In approving the amendments, the Commission agreed that ''odd-lot transactions comprise a noteworthy percentage of total trading volume,'' and stated that ''including odd-lot transactions on the consolidated tape will enhance post-trade transparency, as well as price discovery, and consequently would further the goals of the [Exchange] Act,'' and that ''information about odd-lot transactions would provide important information to investors and other market participants and therefore represents a positive development in the provision of market data.'' [161]

(b) Market Evolution

In recent years, the share prices of some of the most widely-held stocks have increased substantially.[162] As a result of higher share prices, odd-lot orders in many securities have a high dollar, or notional, value. Because SIP data does not currently include odd-lot quotation information except to the extent that cumulative odd-lot interest equals or exceeds a round lot, the best quote reflected in proprietary data products, especially for many high-priced stocks, may be an odd-lot order that is at a price that is better than the best bid or best offer that is disseminated by the exclusive SIPs. Indeed, as discussed below, an analysis of odd-lot transaction data and comments made in connection with the Roundtable indicate that odd-lot orders are frequently priced better than the quotation prices that are disseminated by the exclusive SIPs, yet these orders are not seen by investors or market participants that rely solely on SIP data.[163]

The importance of increasing the transparency of odd-lot quotation information is supported by odd-lot quotation and transaction data. First, odd-lot transactions make up a significant proportion of transaction volume in NMS stocks, including exchange-traded products (''ETPs''). Based on data from the SEC's MIDAS analytics tool,[164] the daily exchange odd-lot rate (*i.e.,* the number of exchange odd-lot trades as a proportion of the number of all exchange trades) for all corporate stocks ranged from approximately 29% to 42% of trades and the daily exchange odd-lot rate for all ETPs ranged from 14% to 20% of trades in 2018. More recently, in June 2019, the daily exchange odd-lot rate for all corporate stocks exceeded 50% several times (and exceeded 65% several times for the top decile by price) and reached almost 30% for all ETPs in the same period.[165] Exchange odd-lot volume as a proportion of total exchange-traded volume also rose in June 2019, reaching approximately 15% for all corporate stocks (and over 30% for the top decile by price) and approximately 4% for all ETPs.[166]

Staff examined odd-lot trade and message volume, duration on the inside,[167] order-book distribution, and quoted spreads for the top 500 securities by dollar volume during the week of September 10–14, 2018, using the exclusive SIP trades, exclusive SIP quotes, off-exchange data from FINRA's TRFs, and all of the exchanges' proprietary data feeds. Staff found that a significant portion of quotation and trading activity occurs in odd-lots, particularly for frequently traded, high-priced securities.[168]

Staff compared the bid-ask spread when using exclusive SIP quotation information (which is in round lots) vs. quotation information in the proprietary feeds (which includes odd-lots). On average, the measure of bid-ask spread, an important metric in understanding market liquidity and quote competition, widens (*i.e.,* degrades) significantly when calculated using only round lots relative to the odd-lot quotations displayed on proprietary feeds. In addition, as average stock share prices

[157] *See, e.g.,* NYSE Rule 7.36 (''The best-ranked non-marketable displayed Limit Order(s) to buy and the best ranked non-marketable displayed Limit Order(s) to sell in the Exchange Book and the aggregate displayed size of such orders associated with such prices will be collected and made available to quotation vendors for dissemination pursuant to the requirements of Rule 602 of Regulation NMS under the Exchange Act. If non-marketable odd-lot sized orders at multiple price levels can be aggregated to equal at least a round lot, such odd-lot sized orders will be displayed as the best ranked displayed orders to sell (buy) at the least aggressive price at which such odd-lot sized orders can be aggregated to equal at least a round lot.''); Nasdaq Rule 4756 (''Pursuant to Rule 602 of Regulation NMS under the Exchange Act, Nasdaq will transmit for display to the appropriate network processor for each System Security: (i) The highest price to buy wherein the aggregate size of all displayed buy interest in the System greater than or equal to that price is one round lot or greater; (ii) the aggregate size of all displayed buy interest in the System greater than or equal to the price in (i), rounded down to the nearest round lot; (iii) the lowest price to sell wherein the aggregate size of all displayed sell interest in the System less than or equal to that price is one round lot or greater; and (iv) the aggregate size of all displayed sell interest in the System less than or equal to the price in (iii), rounded down to the nearest round lot.''); Cboe BZX Rule 11.9(c)(2) (''Odd Lot Orders are only eligible to be Protected Quotations if aggregated to form a round lot.''); *supra* Section III.C for a discussion of odd-lot aggregation. As noted above, the proposed definition of core data sets forth a methodology for odd-lot aggregation for the components of core data. Any odd-lot quotations that are aggregated in an SRO's existing proprietary data products would be required to be aggregated in a manner consistent with the method set forth in the proposed definition of core data. *See supra* note 129.

[158] *See id.* For example, if there are three sell orders on an exchange for a particular NMS stock—30 shares at $10.08, 20 shares at $10.09, and 50 shares at $10.10—the exchange will post 100 shares at $10.10 as a protected round lot quote to the exclusive SIP. *See infra* Section VI.C.1(c)(i).

[159] Odd-lot transaction data that is required to be collected, consolidated, and disseminated pursuant to the Equity Data Plans would be included in the proposed definition of consolidated market data pursuant to proposed Rule 600(b)(20)(viii).

[160] Securities Exchange Act Release Nos. 70793 (Oct. 31, 2013), 78 FR 66788 (Nov. 6, 2013) (order approving Amendment No. 30 to the UTP Plan to require odd-lot transactions to be reported to consolidated tape); 70794 (Oct. 31, 2013), 78 FR 66789 (Nov. 6, 2013) (order approving Eighteenth Substantive Amendment to the Second Restatement of the CTA Plan to require odd-lot transactions to be reported to consolidated tape).

[161] *Id.* at 66789–66790.

[162] For example, between 2004 and 2019, the average price of a stock in the Dow Jones Industrial Average nearly quadrupled.

[163] *See* Roundtable Day Two Transcript at 66 (Paul O'Donnell, Morgan Stanley) (''We all know that, for high-price stocks, there is a market inside the NBBO''); Roundtable Day One Transcript at 116 (Michael Blaugrund, NYSE) (recommending the inclusion in core data of odd-lots priced better than the BBO); Healthy Markets Association Letter II; staff odd-lot analysis, *infra* (observing that 43% of odd-lot transactions in September of 2019 occurred at prices better than the NBBO).

[164] Staff accessed consolidated data from the Equity Data Plans and exchange depth of book data, both of which staff receive through the SEC's MIDAS platform. *See* Market Data Analytics System (''MIDAS''), *available at https://www.sec.gov/marketstructure/midas.html.* This data is commercially available.

[165] *Id. See also* Alexander Osipovich, Tiny 'Odd-Lot' Trades Reach Record Share of U.S. Stock Market, Wall Street Journal (Oct. 23, 2019) (''The share of trades in odd-lot sizes hit a record 48.9% on Oct. 7 and has stayed above 40% ever since, according to the NYSE data, which cover all U.S. equity trades, not just those on the Big Board.'').

[166] *See supra* note 164.

[167] Duration on the inside is the percent of the day the aggregate size at the best price (bid, offer, or both) is less than 100 shares based on the exchange proprietary data feeds.

[168] For example, staff observed that over 86% of the trades that occurred in the two largest securities by market capitalization that have share prices greater than $1,000 occurred in odd-lot share amounts.

rose, bid-ask spreads based only on round lots generally widened by a greater amount than did spreads based on round lots and odd-lots. During the period staff analyzed, for the 500 most frequently traded securities by dollar volume, the average bid-ask spread of the 50 securities with the highest share prices decreased (improved or tightened) by $.05970 when calculated using the proprietary feeds relative to the exclusive SIP feed. Bid-ask spreads for the 50 securities with the lowest share prices showed less improvement when using the proprietary feeds relative to the exclusive SIP feed, decreasing (or tightening) on average by $.00017.

Staff also evaluated the frequency of trades in odd-lot sizes for the top 500 securities by dollar volume and found that frequently traded, high priced securities are likely to have a substantial portion of executions occur in odd-lot sizes. More than 25 percent of the on-exchange share volume of the 50 securities with the highest share prices occurred in odd-lot sizes. In comparison, less than 2% of the on-exchange share volume of the 50 securities with the lowest share prices occurred in odd-lot sizes.

In addition, as noted above,[169] statements made by Roundtable panelists and commenters suggest that odd-lot orders can reflect prices that are better than the quotation prices that are disseminated by the exclusive SIPs. These observations are consistent with staff observations of odd-lot transaction pricing reflected in recent trading data. During the month of September 2019, a substantial proportion of odd-lot trades occurred at prices that are better than the prevailing NBBO. Specifically, approximately 51% of all trades executed on exchange and approximately 14% of all volume executed on exchange in corporate stocks (3,930 unique symbols) occurred in odd-lot sizes (*i.e.,* less than 100 shares), and 43% of those odd-lot transactions (representing approximately 39% of all odd-lot volume) occurred at a price better than the NBBO.

(c) Roundtable Discussion, Comments, and Alternative Proposals

In connection with the Roundtable, one commenter presented data showing increased odd-lot trading and quoting rates over the last several years, as well as the existence of quotes on proprietary feeds that are at prices better than the NBBO disseminated by the exclusive SIPs.[170] Several panelists at the Roundtable were supportive of adding odd-lot quotation information to SIP data.[171] One panelist who supported adding odd-lot orders to SIP data noted that the application of order protection under Rule 611 to odd-lot quotes would need to be considered and added that he would likely be in favor of applying Rule 611 to odd-lot quotes.[172] Finally, one panelist emphasized the importance of odd-lot quotation data to market participants, stating that content that exists only in the proprietary feeds—such as odd-lots—is needed to make effective decisions in trading applications and to fill client orders effectively.[173]

In addition, several comment letters submitted in connection with the Roundtable supported adding odd-lot quotation information to SIP data or otherwise highlighted negative consequences of its exclusion from SIP data.[174] One commenter stated that the Commission should consider rulemaking to expand SIP data to include odd-lot information during which the Commission could gather data and determine whether odd-lots are valuable for price discovery for all securities.[175] Commenters asserted that having to purchase ''relatively basic data such as odd-lots'' through exchange proprietary offerings goes against one of the main purposes of the national market system: Enabling investors' orders to be executed without the participation of a dealer.[176] Another commenter provided data showing that proprietary feeds that include odd-lot quotes reflect superior pricing compared to the SIP data disseminated by the Equity Data Plans and indicated its support for adding odd-lot quotes to SIP data.[177] Similarly, another commenter stated that as stock prices overall have risen and average trade sizes have fallen, odd-lots are becoming more important in the trading process, and the commenter presented data showing that stock price has a meaningful impact on odd-lot frequency and trade size and that high-priced stocks frequently trade in smaller quantities.[178]

Some Roundtable panelists, however, pointed out complications that might arise from the addition of more odd-lot information to the SIP data. One panelist stated that an issue with adding odd-lot quotations to the Equity Data Plans is that they are not protected quotations under Rule 611, so, in the view of the panelist, there would be uncertainty as to whether a broker-dealer has to access odd-lot quotations to meet regulatory obligations. This panelist added that there will need to be clarity as to how odd-lots are reported to the exclusive SIPs and represented in the consolidated tapes (*e.g.,* whether 50 shares at $10 and 100 shares at $10 will be shown separately or as 150 shares at $10).[179] Another panelist stated that caution should be exercised in adding odd-lots to SIP data to avoid

[169] *See supra* note 163.

[170] Letter to Brent J. Fields, Secretary, Commission, from Tyler Gellasch, Executive Director, Healthy Markets Association, 5–11 (Mar. 5, 2019) (''Healthy Markets Association Letter II''). *See also* Letter to Brent J. Fields, Secretary, Commission, from Rich Steiner, Head of Client Advocacy and Market Innovation, RBC Capital Markets, LLC (Oct. 25, 2019) (''RBC Letter'') (stating that internal research suggested exclusive SIPs should display odd-lot quotes).

[171] *See* Roundtable Day One Transcript at 98–99 (Stacey Cunningham, NYSE); Roundtable Day One Transcript at 116–17 (Michael Blaugrund, NYSE); Roundtable Day Two Transcript at 72 (Michael Blaugrund, NYSE) (recommending expanding consolidated market data to include odd-lot orders priced better than the BBO); Roundtable Day One Transcript at 157–59 (Oliver Albers, Nasdaq) (stating that over 50% of the notional value of Nasdaq-listed names is in high priced stocks); Roundtable Day One Transcript at 226–27 (Chris Isaacson, Cboe); Roundtable Day Two Transcript at 73 (Prof. Robert Bartlett, UC Berkeley) (stating that including odd-lots in the trade data has been incredibly useful and including it in the quote data would be also helpful).

[172] *See* Roundtable Day One Transcript at 226–27 (Chris Isaacson, Cboe). In addition, another panelist suggested that revisiting Rule 611 for odd-lots has merit. *See* Roundtable Day One Transcript at 231–32 (Vlad Khandros, UBS). *See also* Robert Battalio, et al., Unrecognized Odd Lot Liquidity Supply: A Hidden Trading Cost for High Priced Stocks, The Journal of Trading (Winter 2017), *available at https://jot.pm-research.com/content/iijtrade/12/1/35.full.pdf* (''[T]he exclusion of odd lot orders from the protected NBBO quote produces cases in which trades fill at prices worse than available opposite-side trading interests.'').

[173] *See* Roundtable Day One Transcript at 127–28 (Mark Skalabrin, Redline Trading Solutions).

[174] *See* Letter to Brent J. Fields, Secretary, Commission, from NYSE Group, 6, 13 (Oct. 24, 2018) (''NYSE Group Letter'') (stating that ''[o]dd-lot quoting, particularly in high-priced securities, has become more prevalent in today's markets and its exclusion from SIP feeds seems anachronistic''; recommending that core data be expanded to include ''the best bid and offer of any quantity''; and stating that ''Main Street would benefit if the prices disseminated by the SIPs included odd-lot quotes''); Letter to Vanessa Countryman, Acting Secretary, Commission, from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA (Sept. 18, 2019) (''SIFMA Letter II''); Letter to Brent J. Fields, Secretary, Commission, from Richard H. Baker, President and CEO, Global Head of Government Affairs Managed Funds Association and Jirí Król, Deputy CEO, Global Head of Government Affairs, AIMA, 3–4 (Dec. 20, 2018) (''MFA and AIMA Letter''); Healthy Markets Association Letter II.

[175] *See* SIFMA Letter II at 3.

[176] *See* MFA and AIMA Letter at 3–4.

[177] *See* Healthy Markets Association Letter II.

[178] *See* RBC Letter at 1–2 (highlighting that approximately 50% of all odd-lot trades in stocks priced between $50 and $250 are in 20 shares or less).

[179] *See* Roundtable Day One Transcript at 159–60 (Adam Inzirillo, BAML) (stating that the different display options could result in a change from current practices).

overwhelming market participants with information. This panelist suggested that a ''price level metric,'' such as including odd-lot orders with a value in excess of a specified price, might make sense.[180]

On October 2, 2019, the Equity Data Plans published an ''initial proposal'' for public comment regarding the addition of odd-lot quotes to the Equity Data Plans for dissemination by the respective exclusive SIPs.[181] Under this proposal, the addition of odd-lot quotes would not change how the NBBO is calculated, nor would such quotes be ''protected quotations'' [182] under Regulation NMS. Rather, the odd-lot quote data would be ''ancillary'' data available to exclusive SIP customers.[183] Each exchange would send its top of book odd-lot quotes to the exclusive SIPs in the same form in which it currently sends its top of book round lot quotes.[184] An ''odd-lot best bid and offer'' would be calculated in the same manner as the round lot NBBO, but would not be disseminated when it is worse than the NBBO.[185]

Additionally, on January 21, 2020, Cboe Global Markets, Inc. (''Cboe'') published a report detailing its recommendations for U.S. equity market structure.[186] In the report, Cboe recommended that top of book odd-lot quotations be included in the exclusive SIP feeds.[187] Furthermore, Cboe recommended redefining round lot with lower numbers for higher priced securities.[188]

(d) Commission Discussion and Proposal

(i) Proposed Definition of Round Lot

Data on odd-lot trading and quoting activity evaluated by staff,[189] and the remarks and comments of market participants, suggest that SIP data omits a substantial amount of economically significant trading interest. Furthermore, bid-ask spreads calculated using round lot orders do not include some odd-lot quotations that may be at prices better than round lot orders, particularly for higher priced securities.[190] The Commission is concerned that information about significant trading interest in odd-lot orders is only available to market participants who have purchased proprietary market data products from exchanges and remains unavailable to those that rely solely on SIP data. This creates a potentially significant information asymmetry between SIP data and proprietary data.[191] Further, the Commission is concerned about the view expressed by some market participants that achieving best execution may be difficult for broker-dealers that rely solely on SIP data.

The Commission preliminarily believes that, to address these and other concerns, certain odd-lot quotation data should be required to be disseminated as part of proposed core data so that it is made more readily available to investors and market participants. The Commission is proposing that this be accomplished by defining the term ''round lot'' to include certain orders that currently are defined as ''odd-lots.'' Given the prevalence of odd-lot quoting and trading, particularly in higher-priced stocks, the absence of odd-lot quotation data significantly reduces the comprehensiveness and usefulness of SIP data.

The Commission preliminarily believes that the inclusion of odd-lot quotations in proposed core data should be reasonably calibrated. The Commission is preliminarily concerned that including all odd-lot quotations could, as some Roundtable commenters suggested,[192] burden systems, increase complexity, and degrade the usefulness of information in a manner that may not be warranted by the relative benefits of the additional information to investors and market participants.[193]

Accordingly, under proposed Rule 600(b)(81) of Regulation NMS, a ''round lot'' would be defined as: (1) For any NMS stock for which the prior calendar month's average closing price on the primary listing exchange [194] was $50.00 or less per share, an order for the purchase or sale of an NMS stock of 100 shares; (2) for any NMS stock for which the prior calendar month's average closing price on the primary listing exchange was $50.01 to $100.00 per share, an order for the purchase or sale of an NMS stock of 20 shares; (3) for any NMS stock for which the prior calendar month's average closing price on the primary listing exchange was $100.01 to $500.00 per share, an order for the purchase or sale of an NMS stock of 10 shares; (4) for any NMS stock for which the prior calendar month's average closing price on the primary listing exchange was $500.01 to $1,000.00 per share, an order for the purchase or sale of an NMS stock of 2 shares; and (5) for any NMS stock for which the prior calendar month's average closing price on the primary listing exchange was $1,000.01 or more per share, an order

[180] *See* Roundtable Day One Transcript at 160–61 (Matt Billings, TD Ameritrade).

[181] *See* CTA Plan and UTP Plan, Odd Lots Initial Proposal (''SIP Odd Lot Initial Proposals''), *available at http://www.utpplan.com/DOC/Odd_Lots_Proposal.pdf, https://ctaplan.com/publicdocs/CTA_Odd_Lots_Proposal.pdf;* CTA Plan and UTP Plan Operating Committees, SIP Operating Committees Seek Comment on Proposal to Add Odd Lot Quotes to SIP Data Feeds (Oct. 2, 2019) (''SIP Odd Lots Proposal Press Release''), *available at https://www.globenewswire.com/news-release/2019/10/02/1924016/0/en/SIP-Operating-Committees-Seek-Comment-on-Proposal-to-Add-Odd-Lot-Quotes-to-SIP-Data-Feeds.html;* Letter from Robert Books, Chairman, UTP and CTA Operating Committees, to industry members and investors, 1 (Jan. 6, 2020) (''CTA and UTP Annual Letter''), *available at https://forefrontcomms.com/wp-content/uploads/2020/01/2020-Annual-Letter_FINAL_.pdf.* The SIP Odd Lot Initial Proposals are the subject of continuing consideration by the operating committees. Comments are *available at https://www.ctaplan.com/oddlots.*

[182] *See supra* note 115.

[183] *See* SIP Odd Lot Initial Proposals, *supra* note 181, at 1.

[184] *See id.*

[185] *See id.*

[186] Cboe, Cboe's Vision: Equity Market Structure Reform (Jan. 21, 2020) (''Cboe Report''), *available at http://www.cboe.com/aboutcboe/government-relations/pdf/cboes-vision-equity-market-structure-reform-2020.pdf.*

[187] *See id.* at 3.

[188] *See id.* at 2–3.

[189] *See supra* Section III.C.1(b) (discussing staff odd-lot analysis).

[190] *Id.*

[191] Specifically, larger or better resourced broker-dealers may be more capable of paying the fees for multiple proprietary data feeds to obtain odd-lot quotations from several markets and consolidating these feeds to create a more complete picture of the market. *See infra* Sections VI.B.2(c), VI.B.3(a), and VI.B.3(b). In addition, the proposed definition of round lot would help ensure that market participants, including retail investors, would receive information on smaller-sized orders in higher-priced stocks in a context in which a trading or order routing decision can be implemented and would receive more informative order execution quality information. *See infra* Section III.C.1(d)(i) (discussing the effect of the proposed definition of round lot on Rules 603(c) and 605).

[192] *See supra* note 180 and accompanying text.

[193] *See infra* note 195. Further, attempting to access orders of insignificant notional value—the share price multiplied by the number of shares in the order—could result in a situation where the benefit associated with accessing additional liquidity may be offset by the cost associated with signaling to other market participants the presence of a large incoming order. *See* Securities Exchange Act Release No. 78309 (July 13, 2016), 81 FR 49432, 49440 (July 27, 2016) (''[S]ophisticated market participants closely monitor order and execution activity throughout the markets, looking for patterns that signal the existence of a large institutional order, so that they can use that information to their trading advantage . . . Indeed, institutional customers have expressed concern that excessive routing of their orders may increase the risk of information leakage without a commensurate benefit to execution quality.''). By limiting the quotation information that is added to the proposed core data to orders of $1,000 dollars notional value or more, as explained below, the proposed definition of round lot will increase transparency into smaller-sized orders while reducing the likelihood of information leakage.

[194] The IPO price would be used in lieu of the prior calendar month's average closing price on the primary listing exchange for newly issued stocks. *See* proposed Rule 600(b)(81).

for the purchase or sale of an NMS stock of 1 share.

Table 1, below, shows the number of NMS stocks that would be in each proposed round lot tier based on monthly average closing prices in September of 2019, as well as the percent of overall average daily volume (''ADV'') and notional value (''$ADV'') of each price group:

TABLE 1

Stock price group	Number of stocks in stock price group	Percent of ADV, by price group (%)	Percent of $ADV, by price group (%)
$0.00–$50.00	7,188	75.02	31.70
$50.01–$100.00	1,094	13.64	21.06
$100.01–$500.00	575	11.20	43.40
$500.01–$1,000.00	14	0.05	0.64
$1,000.01 +	15	0.09	3.19

The Commission's proposed definition of round lot attempts to balance the benefits of adding more quotation data regarding smaller-sized orders to proposed core data against the concerns raised by some Roundtable panelists and commenters that adding all odd-lot quotes to proposed core data could increase its complexity and undermine its usefulness.[195] The proposed definition, in effect, limits the quotation data that would be added to proposed core data to quotations that represent a notional value of at least $1,000, which the Commission preliminarily believes to be meaningful order size for today's market participants.[196]

A round lot is a standard unit of trading that traditionally has reflected an order of meaningful size to market participants. Given the per share price increases of certain securities, and the large number of orders in sub-100 share sizes in today's market,[197] the Commission preliminarily believes that the current round lot size of 100 shares no longer captures many orders of meaningful size. The number of shares in an order, on its own, has become a less accurate way of distinguishing orders of meaningful size from those of de minimis size. For example, a 100-share order for an $11 stock and a 10 share order for a $110 stock both have a notional value of $1,100, but, under exchange rules and NMS plans, only the former may be a round lot currently. The Commission preliminarily believes that defining round lots based on a dollar value would better reflect orders of meaningful size.[198]

Furthermore, higher odd-lot trading rates are associated with higher-priced stocks,[199] and, according to data provided in connection with the Roundtable, odd-lot transaction sizes go down as share price goes up.[200] The proposed tiered, price-based round lot definition is intended to reflect these market dynamics. More specifically, a significant odd-lot transaction market—measured by odd-lot trade frequency—emerges at approximately a $50 share price, and 50% of the odd-lots traded in stocks priced between $50 and $250 are 20 shares or less.[201] This corresponds, approximately, with the proposed 20 share round lot category for stocks priced between $50.01 and $100.00 per share. Moreover, according to data provided in connection with the Roundtable, 20, 10, 2, and 1 share odd-lot trade sizes are among the most common, with approximately 2.8%, 5.1%, 5.3%, and 11.7%, of odd-lot executions, respectively.[202] The proposed definition of round lot is intended to broadly reflect these key data points in the context of a relatively simple, intuitive framework for establishing round lot sizes and associated price thresholds.

Moreover, a significant portion of the odd-lot transactions that occur at a price better than the NBBO [203] would be captured by the proposed definition of round lot. Specifically, of the odd-lot transactions executing at a price better than the NBBO during all of the trading days in September 2019, approximately 38% of such transactions and 61% of the odd-lot volume were in sizes that would be round lots under proposed Rule 600(b)(81). For example, for those stocks with an average prior calendar month's closing price on the primary listing exchange equal to or greater than $500.01 and less than $1,000, approximately 77% of all trades (99% of volume) in sizes less than 100 shares that occurred at a price better than the prevailing NBBO had a transaction size of 2 shares or more. Table 2 and Table 3, below, show the portion of odd-lot trades and volume, respectively, executed a price better than the prevailing NBBO that would be defined as round lots under the proposal:

[195] The proposed definition of round lot only includes a subset of all odd-lot quotation data, namely, orders with a notional value of at least $1,000. This would limit the number of data messages that would be provided to market participants when compared to providing all odd-lot quotation data. The Commission preliminarily believes that the proposed definition would address concerns regarding additional complexity and degradation of the usefulness of the data. *See infra* Section VI.C.1(b)(i).

[196] *See infra* Section VI.C.1.

[197] *See supra* notes 163–169 and accompanying text.

[198] Commenters to the SIP Odd Lot Initial Proposals have suggested defining round lots based on share price. *See* Letter to SIP Operating Committees from Hubert De Jesus, Managing Director, Global Head of Market Structure and Electronic Trading, Blackrock, and Joanne Medero, Managing Director, Global Public Policy Group, Blackrock, regarding Odd Lots Proposal, 2 (Dec. 3, 2019), *available at https://www.theice.com/publicdocs/BlackRock_Odd_Lot_Proposal_December_3_2019.pdf* (''The sizing of round lots provides an intuitive mechanism for expanding odd lot coverage because its designation as the normal unit of trading is embedded in exchange rulebooks and market regulations. . . . BlackRock believes that a data-driven redefinition of round lots to scale lot size relative to security price would improve transparency and promote fairer and more efficient markets.''); Letter from Benjamin Connault, Economist, IEX Group, Inc., and Lucy Malcolm, Associate General Counsel, IEX Group, Inc., to Operating Committees, regarding Odd Lots Proposal and Round Lot Proposal, 2 (Nov. 18, 2019), *available at https://www.theice.com/publicdocs/IEX_Letter_re-CTA–UTP_Odd-Lots_Proposal_20191118.pdf* (''IEX strongly supports reducing the round lot size for higher-priced securities.'').

[199] *See supra* Section III.C.1(b) (stating that the daily exchange odd-lot rate for the top decile of corporate stocks by price exceeds the rate for all corporate stocks).

[200] *See* RBC Letter at 5.

[201] *Id.*

[202] Deutsche Bank, Global Equities, There's More to Odd Lots than High-Priced Stocks (June 25, 2019).

[203] *See supra* Section III.C.1(b).

TABLE 2

Stock price group	Proposed round lot definition	Portion of all trades less than 100 shares, at a price better than the prevailing NBBO, occurring in a quantity that would be defined as a round lot under the proposal (%)
$0.00–$50.00	100 shares	0
$50.01–$100.00	20 shares	46
$100.01–$500.00	10 shares	59
$500.01–$1000.00	2 shares	77
$1,000.01 or more	1 share	100

TABLE 3

Stock price group	Proposed round lot definition	Portion of all volume transacted in a quantity less than 100 shares, at a price better than the prevailing NBBO, occurring in a quantity that would be defined as a round lot under the proposal (%)
$0.00–$50.00	100 Shares	0
$50.01–$100.00	20 Shares	89
$100.01–$500.00	10 Shares	95
$500.01–$1000.00	2 Shares	99
$1,000.01 or more	1 Share	100

The proposed definition of round lot requires the round lot size of an NMS stock to be based on the prior calendar month's average closing price on the primary listing exchange for that stock (or the IPO price if the prior calendar month's average closing price on the primary listing exchange is not available).[204] The Commission preliminarily believes that the prior calendar month's average closing price on the primary listing exchange is a reasonable metric to assess an NMS stock's share price for purposes of determining the applicable round lot size. The daily closing price is a widely followed indicator of a stock's value that is often used to measure performance over time.[205] Moreover, using a monthly average (rather than, *e.g.,* each trading day's closing price or a weekly average), would help ensure that round lot sizes are based on current pricing information, while preventing short-term price fluctuations from impacting the round lot size, thereby avoiding unnecessary complexity and cost.

The proposed definition of round lot would impact other terms that are currently defined in Regulation NMS, as well as the proposed definition of core data (and its included terms), so that quotation information in the proposed round lot sizes would be included in the proposed definition of core data. Specifically, the definition of ''bid or offer'' [206] is based on round lots, and the definition of ''bid or offer'' is reflected in the definition of ''best bid and best offer.'' [207] Similarly, the definition of ''best bid and best offer'' is reflected in the definition of ''national best bid and national best offer.'' [208] Therefore, the addition of the proposed definition of round lot would impact the calculation of the NBBO by requiring that it be calculated based upon the BBOs in the new round lot sizes. In addition, the proposed definition of depth of book data refers to ''quotation size,'' which refers to ''bid or offer,'' so the quotation data at the price levels that are proposed to be included in depth of book data would include quotations in the new proposed round lot sizes.[209]

The proposed definition of ''round lot'' would also affect Rules 602, 603, 604, 605, 606, and 610 of Regulation NMS. Rule 602 governs the dissemination of quotations in NMS securities. Specifically, Rule 602(a), among other things, requires SROs to have procedures to collect and make available certain quotation information from their members and make available their best bids and offers to vendors. As a result of the proposed definition of ''round lot,'' the SROs would be required to collect and make available quotations in the smaller round lot sizes depending on the price of the NMS stock. The Commission preliminarily believes the bids and offers collected and made available under Rule 602(a) should be in the proposed round lot sizes. As discussed above, the Commission preliminarily believes that the proposed round lot sizes represent orders of meaningful size to market participants and should be collected, consolidated, and disseminated in proposed core data. To effectively implement this, exchanges must be required to collect and make available

[204] Specifically, the prior calendar month's average closing price on the primary listing exchange would be the mean of the daily closing prices on the primary listing exchange for all trading days in the prior calendar month. For each NMS stock, the prior calendar month's average closing price on the primary listing exchange would only need to be computed at the beginning of each calendar month and would be in effect for the rest of the month (*i.e.,* it would not be a ''rolling'' average requiring computation more frequently than once per calendar month).

[205] *See* Christopher Ting, Which Daily Price Is Less Noisy?, Financial Management 35, no. 3 (2006): 81–95 (describing daily closing price as a popular reference price, including for fund managers to compute net asset values).

[206] *See* 17 CFR 242.600(b)(9).

[207] *See* 17 CFR 242.600(b)(8).

[208] *See* 17 CFR 242.600(b)(43).

[209] Similarly, since ''transaction report'' is defined as ''a report containing the price and volume associated with a transaction involving the purchase or sale of one or more round lots of a security,'' core data, as proposed, would include transaction reports based on the new proposed round lot sizes. The Equity Data Plans already collect and disseminate all odd-lot transaction reports and last sale data. *See supra* notes 160–161 and accompanying text. Accordingly, under proposed Rule 600(b)(19)(iv), which incorporates data elements required by the NMS plan(s) into the proposed consolidated market data, the SROs would continue to be required to provide all odd-lot transaction reports and last sale data as part of the proposed consolidated market data.

quotations in these sizes under Rule 602(a).

In addition, Rule 602(b) provides that each ''responsible broker or dealer'' shall communicate to its SROs its best bids and offers and quotation sizes for a ''subject security.'' [210] Thereafter, each responsible broker or dealer is obligated to execute an order to buy or sell a subject security, other than an odd-lot order, that is presented to that responsible broker or dealer at a price at least as favorable to such buyer or seller as the responsible broker's or dealer's ''published bid or published offer.'' [211] In other words, the responsible broker or dealer must be firm for its ''published bid or published offer.'' [212] As a result of the proposed definition of round lot, responsible brokers or dealers will be required to communicate bids and offers in the proposed round lot sizes and be firm for such bids and offers. The Commission preliminarily believes that the proposed round lot definition should apply to the obligations of responsible brokers or dealers under Rule 602(b). As explained above, the Commission preliminarily believes that the proposed round lot sizes better reflect orders of meaningful size in today's markets. The Commission also preliminarily believes that the objectives of Rule 602(b) of ensuring that broker-dealers disseminate their best quotes, and are firm for such quotes, would be furthered by applying the proposed definition of round lots such that those obligations would apply to quotes of meaningful size.

Rule 603(c) governs the display of information with respect to quotations for and transactions in NMS stocks. Specifically, Rule 603(c)(1) states that no securities information processor, broker, or dealer shall provide, in a context in which a trading or order routing decision can be implemented, a display of any information with respect to quotations for or transactions in an NMS stock without also providing, in an equivalent manner, a consolidated display—*i.e.,* the NBBO and consolidated last sale information [213]—for such stock.[214] As a result of the proposed definition of ''round lot,'' a securities information processor, broker, or dealer would be required to provide a consolidated display that reflects smaller-sized orders in higher-priced stocks. As discussed above, the Commission preliminarily believes that the proposed round lot sizes represent orders of meaningful size to market participants. The Commission also preliminarily believes that the objective of Rule 603(c) of ensuring that market participants receive basic quotation and transaction information in a context in which a trading or order routing decision can be implemented would be furthered to the extent that such information is based on orders of meaningful size such as round lots as proposed to be defined in this proposal.

Rule 604, which governs the display of customer limit orders for NMS stocks, would also be affected by the proposed definition of round lot. Rule 604(a)(1) requires each member of a national securities exchange that is registered with that exchange as a specialist, or is authorized by that exchange to perform functions substantially similar to those of a specialist, to publish immediately a bid or offer that reflects: (i) The price and the full size of each customer limit order held by the specialist that is at a price that would improve the bid or offer of such specialist in such security; and (ii) the full size of each customer limit order held by the specialist that is priced equal to the bid or offer of such specialist for such security, is priced equal to the national best bid or national best offer, and represents more than a de minimis change in relation to the size associated with the specialist's bid or offer. Rule 604(a)(2) imposes similar requirements on OTC market makers with respect to their customer limit orders. The requirements of Rule 604 do not apply to customer limit orders that, among other things, are odd-lots.[215]

Under the proposed definition of round lot, a specialist or OTC market maker would have to include customer limit orders in the new round lot sizes within its published bids and offers. Rule 604 currently applies to round lots and the Commission preliminarily believes that Rule 604 should continue to use round lots, as proposed to be defined, as the measure for customer limit orders that must be reflected in a specialist or OTC market maker's published bid or offer. The Commission preliminarily believes that the objectives of Rule 604 of ensuring that customers have the ability to effectively seek price improvement through the dissemination of their limit orders by specialists or OTC market makers would be furthered by applying the proposed definition of round lot such that those obligations would apply to customer limit orders of meaningful size. Therefore, the Commission preliminarily believes that the customer limit order display requirements of Rule 604 should apply to orders in the new proposed round lot sizes.

Rule 605, which governs the disclosure of order execution quality information, would also be affected by the proposed definition of round lot because of the effect on the definition of NBBO. Rule 605 requires market centers to publish monthly reports containing execution statistics [216] for certain NMS stock orders, including, but not limited to, the ''average realized spread,'' [217]

[210] ''Subject security'' means ''(i) With respect to a national securities exchange: (A) Any exchange-traded security other than a security for which the executed volume of such exchange, during the most recent calendar quarter, comprised one percent or less of the aggregate trading volume for such security as reported pursuant to an effective transaction reporting plan or effective national market system plan; and (B) Any other NMS security for which such exchange has in effect an election, pursuant to 242.602(a)(5)(i), to collect, process, and make available to a vendor bids, offers, quotation sizes, and aggregate quotation sizes communicated on such exchange; and (ii) With respect to a member of a national securities association: (A) Any exchange-traded security for which such member acts in the capacity of an OTC market maker unless the executed volume of such member, during the most recent calendar quarter, comprised one percent or less of the aggregate trading volume for such security as reported pursuant to an effective transaction reporting plan or effective national market system plan; and (B) Any other NMS security for which such member acts in the capacity of an OTC market maker and has in effect an election, pursuant to 242.602(a)(5)(ii), to communicate to its association bids, offers, and quotation sizes for the purpose of making such bids, offers, and quotation sizes available to a vendor.'' 17 CFR 242.600(b)(77).

[211] *See* Rule 602(b)(2), 17 CFR 242.602(b)(2); Regulation NMS Adopting Release, *supra* note 10, at 37538. ''Published bid and published offer means the bid or offer of a responsible broker or dealer for an NMS security communicated by it to its national securities exchange or association pursuant to § 242.602 and displayed by a vendor on a terminal or other display device at the time an order is presented for execution to such responsible broker or dealer.'' 17 CFR 242.600(b)(64).

[212] 17 CFR 242.602(b)(2). *See also* Rule 600(b)(64) which defines ''published bid and published offer.'' 17 CFR 242.600(b)(64).

[213] Rule 600(b)(14) defines ''consolidated display'' as ''(i) The prices, sizes, and market identifications of the national best bid and national best offer for a security; and (ii) Consolidated last sale information for a security.'' 17 CFR 242.600(b)(14).

[214] Rule 603(c)(2) further states that this provision does not apply to a display of information on the trading floor or through the facilities of a national securities exchange or to a display in connection with the operation of a market linkage system implemented in accordance with an effective national market system plan. 17 CFR 242.603(c)(2).

[215] *See* 17 CFR 242.604(b)(3).

[216] Among other things, these reports must be ''categorized by order size,'' which means ''dividing orders into separate categories for sizes from 100 to 499 shares, from 500 to 1999 shares, from 2000 to 4999 shares, and 5000 or greater shares.'' 17 CFR 242.600(b)(11).

[217] Rule 600(b)(7) defines ''average realized spread'' as ''the share-weighted average of realized spreads for order executions calculated, for buy orders, as double the amount of difference between the execution price and the midpoint of the national best bid and national best offer five minutes after the time of order execution and, for sell orders, as double the amount of difference between the midpoint of the national best bid and national best offer five minutes after the time of order execution and the execution price; provided, however, that the midpoint of the final national best

''average effective spread,'' [218] data on shares ''executed with price improvement,'' [219] and data on shares ''executed outside the quote.'' [220] The calculations of average realized spread and average effective spread rely on the mid-point of the NBBO. Similarly, the benchmark for price improvement statistics, as reflected in the definitions of ''executed at the quote,'' [221] ''executed with price improvement,'' [222] and ''executed outside the quote,'' [223] is the NBBO. As discussed above, since the NBBO will be based on the proposed round lot sizes, any Rule 605 execution quality statistics that rely on the NBBO as a benchmark would be affected by the proposed definition of round lot on the NBBO.[224] The Commission preliminarily believes that order execution disclosures required under Rule 605 should be based on the NBBO that reflects the new proposed round lot sizes. The NBBO is currently based on round lots, and the proposed definition of round lot would allow additional orders of meaningful size to determine the NBBO. As a result, the execution quality and price improvement statistics required under Rule 605 would be based upon an updated NBBO that the Commission preliminarily believes is a more meaningful benchmark for these statistics. Therefore, the Commission preliminarily believes that the NBBO, as modified by the proposed definition of round lot, should continue to be used as a basis for the statistics required under Rule 605.[225]

Rule 606, which requires broker-dealers to provide disclosure of information regarding the handling of the broker-dealers' customers' orders,[226] would also be affected by the proposed definition of round lot because of the effect on the definition of actionable indication of interest.[227] Specifically, Rule 606(b)(3) requires every broker-dealer, upon a request of a customer who places a not held order, to provide the customer with a standardized set of individualized disclosures concerning the broker-dealer's handling of the orders. The disclosures include, among other things, not held orders exposed by the broker-dealer through actionable indications of interest, and the venue(s) to which the actionable indications of interest were exposed, provided that the identity of such venue(s) may be anonymized if the venue is a customer of the broker-dealer. Rule 600(b)(1) defines an actionable indication of interest as any indication of interest that explicitly or implicitly conveys all of the following information with respect to any order available at the venue sending the indication of interest: (i) Symbol; (ii) side (buy or sell); (iii) a price that is equal to or better than the national best bid for buy orders and the national best offer for sell orders; and (iv) a size that is at least equal to one round lot.[228] As a result of the proposed definition of round lot, there could be more actionable indications of interest in higher priced securities. The Commission preliminarily believes that applying the proposed round lot definition to actionable indications of interest would further the objectives of Rule 606 regarding the disclosure of order handling information—to make it easier for investors to evaluate how their brokers handle orders and make more informed decisions about brokers, and help investors to better understand how broker-dealers route and handle orders and assess the impact of broker-dealer routing decisions on order execution quality.

In addition, Rule 610, which governs access to quotations, would be affected by the proposed definition of round lot. Specifically, Rule 610(c) prohibits trading centers from imposing fees for the execution of an order against a protected quotation or any other quotation that is the best bid or offer of an SRO if the fees exceed certain limits ($0.003 per share for quotes of $1.00 or more and 0.3% of the quotation price per share for quotes less than $1.00). As the Commission explained in adopting Regulation NMS, ''the purpose of the fee limitation is to ensure the fairness and accuracy of displayed quotations by establishing an outer limit on the cost of accessing such quotations,'' and Rule 610 ''thereby assures order routers that displayed prices are, within a limited range, true prices.'' [229] As a result of the proposed definition of round lot, these fee limitations would apply to quotes in the smaller round lot sizes because they would apply to quotations that are the ''best bid or offer'' of an SRO. Rule 610(c) currently applies to quotations in round lots and the Commission preliminarily believes that Rule 610(c) should apply to quotations in the new proposed round lot sizes. The Commission preliminarily believes that applying the fee limitations of Rule 610(c) to orders of meaningful size, as reflected in the proposed definition of round lot, would further that rule's objectives of ensuring the accuracy of displayed quotations by establishing an outer limit on the cost of accessing them.

Finally, Rule 201 of Regulation SHO requires, among other things, that trading centers have written policies and procedures reasonably designed to prevent the execution or display of a short sale order of a covered security at a price that is less than or equal to the current national best bid if the price of that covered security decreases by 10% or more from the covered security's closing price as determined by the listing market for the covered security as of the end of regular trading hours on

bid and national best offer disseminated for regular trading hours shall be used to calculate a realized spread if it is disseminated less than five minutes after the time of order execution.'' 17 CFR 242.600(b)(7).

[218] Rule 600(b)(6) defines ''average effective spread'' as ''the share-weighted average of effective spreads for order executions calculated, for buy orders, as double the amount of difference between the execution price and the midpoint of the national best bid and national best offer at the time of order receipt and, for sell orders, as double the amount of difference between the midpoint of the national best bid and national best offer at the time of order receipt and the execution price.'' 17 CFR 242.600(b)(6).

[219] Rule 600(b)(29) defines ''executed with price improvement'' as ''for buy orders, execution at a price lower than the national best offer at the time of order receipt and, for sell orders, execution at a price higher than the national best bid at the time of order receipt.'' 17 CFR 242.600(b)(29).

[220] Rule 600(b)(28) defines ''executed outside the quote'' as ''for buy orders, execution at a price higher than the national best offer at the time of order receipt and, for sell orders, execution at a price lower than the national best bid at the time of order receipt.'' 17 CFR 242.600(b)(28).

[221] Rule 600(b)(27) defines ''executed at the quote'' as ''for buy orders, execution at a price equal to the national best offer at the time of order receipt and, for sell orders, execution at a price equal to the national best bid at the time of order receipt.'' 17 CFR 242.600(b)(27).

[222] *Supra* note 219.

[223] *Supra* note 220.

[224] *See supra* Section III.C.1(d)(i) (discussing the impact of the proposed definition of round lot on other Regulation NMS defined terms, such as the NBBO). As discussed above, the Commission preliminarily believes that actual execution quality for retail investors will be improved as a result of the inclusion of odd-lot quotes in core data as a result of the better pricing that is often reflected in odd-lots.

[225] The NBBO used for purposes of Rule 605 would be calculated by competing consolidators and self-aggregators using the proposed round lot sizes. *See supra* Section III.C.1(d)(i). Under the proposal, each competing consolidator and self-aggregator would be required to calculate an NBBO consistent with the requirements set forth in the NBBO definition found in Rule 600(b)(50). *See* proposed Rule 614(d)(2). Accordingly, even though each competing consolidator and self-aggregator would be calculating its own NBBO, the calculation methodology for the NBBO would be consistent. Because the NBBO would be calculated in a consistent manner, Rule 605 reports should still provide uniform comparisons of execution quality.

[226] Broker-dealers who engage in outsourced routing activity are exempt from the requirement to comply with Rule 606(b)(3) until April 1, 2020. *See* Securities Exchange Act Release No. 86874 (Sept. 4, 2019), 84 FR 47625 (Sept. 10, 2019).

[227] *See* 17 CFR 242.600(b)(1). *See also* Securities Exchange Act Release No. 84528 (Nov. 2, 2018), 83 FR 58338 (Nov. 19, 2018) (''Rule 606 Adopting Release'').

[228] *See id.*

[229] *See* Regulation NMS Adopting Release, *supra* note 10, at 37502.

the prior day.[230] As a result of the proposed definition of round lot, the national best bid would include orders in the proposed round lot sizes. The Commission preliminarily believes that the objectives of Rule 201 of restricting destabilizing short sale orders in rapidly declining markets would be furthered by applying the proposed definition of round lot such that bids of meaningful size would be included within this restriction.[231]

The Commission requests comment on the proposed definition of round lot in proposed Rule 600(b)(81) and the inclusion of additional quotation information for higher priced shares in proposed core data that would result from this proposed definition. In particular, the Commission solicits comment on the following:

8. Should odd-lot quotation data that is not currently reflected in SIP data be incorporated into core data, as proposed, and, if so, what is the best way to do so?

9. Should core data, as proposed, include quotation information for smaller sized orders in higher priced stocks? Why or why not? Does adding this quotation information enhance the usefulness of core data, as proposed? Please explain. What kinds of market participants would use this information? For what purposes? Would the inclusion of this information have any negative or unintended consequences, such as ''information overload'' effects? Please explain.

10. Do commenters believe the Commission's proposed definition of round lot is an effective way to incorporate this additional quotation information into core data, as proposed? Why or why not? What effect would the proposed definition have on systems capacity? Please explain and provide data. Would the proposed definition affect market complexity? Please explain. Do commenters believe that the proposed definition of round lot appropriately balances the benefits of providing additional quotation data to investors and other market participants against potential costs such as additional system burdens or increased data complexity? If not, please explain how this balance could be more appropriately achieved. Specifically, please provide details on the quantity of additional data or the increase in message traffic that would be represented by the Commission's proposal and any alternative proposals.

11. Are there alternative approaches, such as requiring all or a subset of odd-lot quotations to be included in the proposed definition of core data, or directly requiring all quotes over a certain notional value to be included in the proposed definition of core data (rather than indirectly as in the proposed definition of ''round lot'')? Please describe any alternative approaches. What would be the advantages and disadvantages of any alternative approaches?

12. Would the Commission's proposed definition of round lot capture a significant portion of the odd-lot quotation activity that is currently not included in SIP data? Is the definition appropriately tailored to capture the odd-lot quotation information that would be useful to market participants? If not, please identify and discuss alternative approaches that might be more appropriate. For example, do commenters believe round lot sizes and price intervals different from those in the proposed definition would capture more useful odd-lot quotation data? Please include data to support any suggested alternative sizes or price intervals. Please also discuss any issues related to increased order routing complexity or compliance with Commission rules that might result from the proposed definition of ''round lot.''

13. Do commenters believe that odd-lot quotes should be aggregated into the new round lot sizes at multiple price levels for the purposes of calculating and disseminating the NBBO in the proposed definition of core data? Why or why not? What are commenters' views on the specific odd-lot aggregation methodology set forth in the proposed definition of core data?

14. Do commenters agree with the Commission's proposal to require odd-lot aggregation for purposes of protected quotations only at a single price level? Please explain. Should odd-lots be aggregated only at a single price level for purposes of determining the protected bid and offer for stocks valued at $50.00 or less based on the prior calendar month's average closing price on the primary listing exchange even though the round lot for this price tier remains 100 shares (*i.e.,* both the best bid and offer and protected bid and offer must be 100-shares in this price tier)? Should a multiple price level aggregation methodology for determining protected quotations apply to stocks valued at $50.00 or less? Would there be any costs or negative effects of having different odd-lot aggregation methodologies for stocks at different price levels?

15. Is a price-based metric for determining round lot size an appropriate metric for determining the proposed round lot tiers? Are the proposed tiered round lot sizes appropriate? Why or why not? Should the tiers be set at different intervals? Should there be more or fewer tiers? For example, should the round lot size be one share for any NMS stock for which the prior calendar month's average closing price on the primary listing exchange was $500.01 or greater? Why or why not? Are the round lot sizes appropriate for the share prices? If not, what is the appropriate round lot size? Please provide empirical support for any suggested alternatives.

16. Do commenters believe that a significant number of broker-dealers do not currently subscribe to proprietary market data products, including proprietary market data products that include odd-lot quotations? If so, how many and what type of broker-dealers (*e.g.,* executing broker-dealers, introducing broker-dealers, small broker-dealers, large broker-dealers)? Are there specific types of proprietary market data products to which any such broker-dealers do not subscribe? If so, which types of proprietary market data products? Do any such broker-dealers subscribe to proprietary data products from some exchanges but not others?

17. Do commenters have views on the odd-lot proposal released by the operating committees of the Equity Data Plans? [232] What are the advantages and disadvantages of the proposal by the Equity Data Plans as compared to the Commission's proposed definition of round lot?

18. Each of the proposed tiers represent a notional value of over $1,000. Is this an appropriate threshold? Should it be higher or lower? Please explain and submit data to support your analysis.

19. Do commenters believe that the prior calendar month's average closing price on the primary listing exchange (or IPO price if the prior calendar month's average closing price is not available) is an effective way to assess the price of a stock for purposes of determining its round lot size? Why or why not? Do commenters believe it would be costly, difficult, or problematic for market participants to adjust procedures and systems to take into account new round lot sizes based

[230] 17 CFR 242.201(b)(1)(i).

[231] Securities Exchange Act Release No. 61595, *supra* note 75. The Commission also preliminarily believes that instituting a different round lot size for purposes of Rule 201 would introduce unnecessary complexity into the markets. In particular, excessive order routing complexity may be introduced if order routers are allowed to execute a short sale order against certain bids (*i.e.,* smaller round lots that are priced better than the 100-share national best bid) but not allowed to execute a short sale order against other bids (*i.e.,* a 100-share bid).

[232] *See supra* notes 181–185.

on the prior calendar monthly average closing price on the primary listing exchange, or to account for a particular stock's potentially different round lot size every month? Are there alternative time periods over which a stock's price for purposes of assigning a round lot size should be measured or alternative methods for measuring a stock's price that the Commission should consider? When should a stock whose price changes from one tier to another be assigned to a new round lot size and for how long should it remain in that round lot size? Would stocks priced near the thresholds that differentiate the round lot tiers be affected by frequent shifts between round lot sizes? Please explain.

20. During the month following the IPO of a newly listed stock, should a minimum number of trading days be required to elapse before the stock's round lot size is determined? If so, should the average daily closing price on the primary listing exchange (or some other metric) over the course of that number of trading days be used to calculate the stock's price for purposes of determining its round lot size? If so, how would the stock's round lot size be determined in the interim?

21. Do commenters have views on how monthly average closing price should be determined for stocks that are not traded every day? Should the closing price of the most recent trading day on which there was a trade be used each intervening day until the stock is traded again?

22. Do commenters believe that the impacts of the proposed definition of round lot on the Commission rules described above are appropriate? Why or why not? Will any SRO rules be affected? Please explain. Specifically, please describe any effect of the proposed definition of round lot on market maker quoting obligations under SRO rules.

23. Should the proposed definition of round lot apply to Rules 602 and 604? Do commenters believe the applicability of the proposed smaller round lot sizes to these rules will help foster more displayed quotations of small orders? Do commenters believe this will result in a significant tightening of quoted spreads?

24. Should the Commission amend Rule 605 in light of the proposed round lot definition? Specifically, since the disclosures required by Rule 605 must be ''categorized by order size,'' [233] which currently begins at 100 shares, should the definition of ''categorized by order size'' be amended to require the relevant execution information to be provided for sub-100 share orders, such as orders in the proposed round lot sizes? Do commenters believe this would negatively or positively affect the execution quality statistics provided pursuant to Rule 605? More broadly, do commenters believe the proposed definition of round lot would improve the actual prices provided to retail investors (as distinct from the Rule 605 execution quality statistics)?

25. Should the proposed definition of round lot apply to Rule 610(c)? Specifically, should the fee limits under Rule 610(c) apply to quotations in the proposed new round lot sizes? Would exchanges or other trading centers increase access fees for the smaller round lots if Rule 610(c) were limited to 100-share protected quotations? Why or why not? Do commenters believe that market forces would provide sufficient control over access fees for quotations in the smaller round lots? Why or why not? Should Rule 610(c) be limited to the Commission's definition of protected bid or protected offer, as amended? What would be the benefits and costs of each approach?

26. Should the proposed definition of round lot apply to Rule 201 of Regulation SHO? Would the scope of Rule 201 be expanded as a result of the proposed definition of round lot in a way that would unnecessarily restrict the ability of market participants to sell short? Will additional or excessive order routing complexity result from the application of Rule 201 to quotations in the proposed smaller round lot sizes? Should ''protected bid,'' as proposed to be amended, rather than the national best bid be used as the reference price for determining which short sales are required to be prevented under Rule 201? What would be the benefits and costs of each approach?

27. Do commenters believe that the proposed definition of round lot would have any effect on an exchange's official closing prices? Would the proposed definition of round lot have any effect on the pricing practices of mutual funds and other investment companies, including the calculation of net asset value or trading in portfolio securities? Please explain the potential costs and benefits of any such effects.

28. Do commenters believe that the proposed definition of round lot would affect the proportion of on-exchange or off-exchange liquidity? Please explain.

(ii) Proposed Amendments to the Definition of Protected Bid or Protected Offer

Rule 611 requires trading centers to have policies and procedures that are reasonably designed to prevent trade-throughs on that trading center of protected bids or protected offers in NMS stocks, subject to specified exceptions.[234] Rule 611 currently applies only to round lots.[235] If the definition of protected bid or protected offer were left unmodified, the Commission's proposed definition of round lot would result in an expansion of Rule 611 by requiring the protection of quotations in the new smaller round lot sizes.

Whether Rule 611 should be modified or repealed has been the subject of much debate in recent years.[236] Rule

[233] *See supra* note 216.

[234] Rule 611(a)(1). *See also supra* notes 115, 182. Rule 600(b)(81) defines ''trade-through'' as ''the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a protected bid or higher than a protected offer.'' 17 CFR 242.600(b)(81).

[235] Specifically, Rule 611 applies to ''protected quotations'' which means ''protected bid[s] or []protected offer[s].'' 17 CFR 242.600(b)(62). ''Protected bid or protected offer,'' as defined in Rule 600(b)(61), refers to ''a quotation,'' defined in Rule 600(b)(66), which in turn refers to ''a bid or an offer,'' defined in Rule 600(b)(9), which, as noted above, applies to round lots.

[236] For example, in its April 2017 memorandum discussing Rules 610 and 611 under the Exchange Act, the Equity Market Structure Advisory Committee (''EMSAC'') Regulation NMS Subcommittee (''Subcommittee'') stated that the industry largely remained divided in its view on both the success and the continued need for the trade-through and the locked and crossed markets provisions of Regulation NMS. *See* Memorandum to EMSAC from the Subcommittee (Apr. 3, 2017), *available at https://www.sec.gov/spotlight/emsac/emaac-regulation-nms-subcommittee-discussion-framework-040317.pdf.* In the memorandum, the Subcommittee recommended, among other things, that the Commission consider repealing Rule 611 on a pilot basis, with the goals of reducing excess complexity in the marketplace (as demonstrated by venue fragmentation, order types, and routing complexity); testing the hypothesis that Rule 611 has not created an incentive for posting visible liquidity; and opening the markets to competition and innovation over a longer time horizon, which the Subcommittee believed is currently constrained due to the proscriptive nature of Regulation NMS. The Subcommittee noted several arguments supporting the removal of Rule 611, including the apparent failure of Regulation NMS to increase the display of limit orders in the marketplace and the increase in dark liquidity, smaller trade sizes, and ''small'' venues; the de minimis benefit from decreased trade-through rates, coupled with a relatively high cost of trade-through compliance and the creation of new venues, complex order types, and a need to focus on speed and other market complexities as a requirement to manage queue priority; the fact that competition among market centers is largely based on price and speed; and the difficulty of setting the NBBO in active stocks without the use of sophisticated price-sliding order types and intermarket sweep orders. The Subcommittee also identified several arguments in support of retaining Rule 611, including concerns, especially among individual investors, of losing the best execution backstop of the trade-through rule; the concern that individual investors' non-marketable orders would lose trade-through protection; and a concern regarding the amount of effort that could be required to further monitor order routing behavior by agents in the absence of a trade-through rule. The Subcommittee also expressed the view that Rule 611 is too prescriptive as a best execution rule and that concerns about

Continued

611 was controversial when adopted,[237] with many commenters either opposing the rule entirely or advocating for exceptions, such as for block trades or for those wishing to opt out of the Rule's protections.[238] In the years since, Rule 611 has continued to be the subject of much debate, with some arguing that the rule has negatively impacted equity market structure, others taking the position that any benefits were achieved early on when the Rule induced widespread automated quotations and connectivity, and yet others expressing the view that the Rule continues to play an important role in supporting best execution and retail investor confidence.[239] Recently, a Subcommittee of the Commission's Equity Market Structure Advisory Committee advocated that the EMSAC recommend that the Commission consider repealing Rule 611 on a pilot basis to test its impact.[240]

In light of the concerns about the existing scope of Rule 611, the Commission preliminarily believes that Rule 611 should not be extended to smaller-sized quotations reflected in the proposed definition of round lot. Moreover, the Commission preliminarily believes that extending Rule 611 to the proposed new round lots is not necessary in light of market developments since the adoption of Regulation NMS in 2005. While a substantial amount of trading in 2005 was conducted on relatively slow manual markets,[241] and was concentrated for any given stock on its listing exchanges,[242] nearly all trading now occurs on fast, electronic markets (where even small degrees of latency affect trading strategies) and is dispersed among a wide range of competing market centers.[243] In a market environment characterized by fast, electronic trading across multiple venues, order routing and execution strategies have become highly automated and increasingly sophisticated at obtaining the best prices throughout the national market system.[244] In addition, best execution obligations apply to odd-lot orders [245] and would apply to bids and offers in the proposed round lot sizes. The Commission preliminarily believes that these market developments and improvements in trading and order routing technology, in combination with their pursuit of best execution, would provide sufficient incentives for market participants to engage with meaningfully sized orders [246] even in the absence of an expanded order protection mandate under Rule 611.[247] Further, the additional pre-trade transparency that would be provided to these orders by their inclusion in proposed core data should encourage market participants to access this liquidity, as many market participants that access similar data through proprietary feeds are already doing today.[248] Moreover, as discussed above, the execution quality and price improvement statistics required under Rule 605 would be based upon an NBBO that reflects the new proposed round lot sizes, and would provide investors, including retail investors, with higher-quality information about their order executions.

Thus, the Commission is proposing to amend the definition of ''protected bid or protected offer'' in Rule 600(b)(61) by requiring automated quotations that are the best bid or offer of a national securities exchange or national securities association to be ''of at least 100 shares'' in order to qualify as a protected bid or protected offer. The proposed addition of this language will preserve the existing scope of Rule 611 for the vast majority of NMS stocks.[249]

best execution could be addressed more effectively through enhanced guidance and procedures.

[237] *See* Regulation NMS Adopting Release, *supra* note 10, dissenting opinion.

[238] *See* Regulation NMS Adopting Release, *supra* note 10, at 37505–37506, 37516, 37524–37526.

[239] *See* Memorandum to EMSAC from the Subcommittee, *supra* note 236; Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA to Brent J. Fields, Secretary, SEC, 5–7 (Mar. 29, 2017), *available at https://www.sec.gov/comments/s7-21-16/s72116-1674693-149275.pdf* (recommending that the SEC consider (1) eliminating Rule 611 and relying on the duty of best execution to maintain intermarket price protection, or (2) modifications to Rule 611 to add volume thresholds for protected quote status and a block exception); Letter from William R. Harts, CEO, Modern Markets Initiative, to Brent J. Fields, Secretary, SEC (Dec. 9, 2016), *available at https://www.sec.gov/comments/s7-21-16/s72116-9.pdf* (recommending that the SEC review Rule 611 to assess whether it should be modified in light of the costs of compliance).

[240] *See* Memorandum to EMSAC from the Subcommittee, *supra* note 236.

[241] *See* Equity Market Structure Concept Release, *supra* note 11, 75 FR at 3594 (''NYSE-listed stocks were traded primarily on the floor of the NYSE in a manual fashion until October 2006. At that time, NYSE began to offer fully automated access to its displayed quotations.''). In contrast to NYSE, stocks listed on Nasdaq traded in a highly automated fashion at many different trading centers following the introduction of SuperMontage in 2002. *See* Securities Exchange Act Release No. 46429, *supra* note 15; Steven Quirk, Senior Vice President, Trader Group, TD Ameritrade, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, Hearing on ''Conflicts of Interest, Investor Loss of Confidence, and High Speed Trading in U.S. Stock Markets'' (June 17, 2014), *available at https://www.hsgac.senate.gov/imo/media/doc/STMT%20-%20Quirk%20-%20TD%20Ameritrade%20(June%2017%202014).pdf%20* (citing statistics that average execution speed has improved by 90% since 2004—from 7 seconds to 0.7 seconds in 2014). Today, trading speed is measured in microseconds and is moving towards nanoseconds. *See, e.g.,* Vera Sprothen, Trading Tech Accelerates Toward Speed of Light, Wall Street Journal (Aug. 8, 2016), *available at https://www.wsj.com/articles/trading-tech-accelerates-toward-speed-of-light-1470559173;* Alexander Osipovich, NYSE Aims to Speed Up Trading With Core Tech Upgrade, Wall Street Journal (Aug. 5, 2019), *available at https://www.wsj.com/articles/nyse-aims-to-speed-up-trading-with-core-tech-upgrade-11565002800.*

[242] *See* Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782 (Dec. 9, 2008) (File No. SR–NYSEArca–2006–21) (NYSE's reported market share of trading in NYSE-listed stocks declined from 79.1% in January 2005 to 30.6% in June 2008.); Equity Market Structure Concept Release, *supra* note 11.

[243] *See* Equity Market Structure Concept Release, *supra* note 11, 75 FR at 3598 (''The registered exchanges all have adopted highly automated trading systems that can offer extremely high-speed, or 'low-latency,' order responses and executions.'').

[244] *See* Equity Market Structure Concept Release, *supra* note 11, at 3594, 3598; Paul G. Mahoney and Gabriel Rauterberg, The Regulation of Trading Markets: A Survey and Evaluation, University of Virginia School of Law, Law and Economics Research Paper Series 2017–07, at 6 (Apr. 2017) (''Brokers overwhelmingly place orders and trade through [NYSE's] electronic trading system . . . all markets have come to rely more and more on using software to match buy and sell orders automatically.'').

[245] *See* Securities Exchange Act Release No. 37619A (Sept. 6, 1996) 61 FR 48290, 48305 and 48323 (Sept. 12, 1996) (''Order Execution Obligations Release'') (''The market maker still will have best execution obligations with respect to the remaining odd-lot portion of the customer limit order.'').

[246] *See supra* notes 196–198 and accompanying text (explaining that the proposed definition of round lot is intended to reflect orders of meaningful size for today's market participants).

[247] Moreover, the Commission is aware that many market participants today already utilize proprietary data feeds that include odd-lots and, therefore, already have visibility into odd-lot quotations priced better than the NBBO. Accordingly, since these market participants already see and trade with quotations that are priced better than protected quotations and have best execution obligations, the greater transparency into smaller-sized orders that the Commission is proposing is not dissimilar from the trading environment that exists today for many market participants. *See also supra* note 90.

[248] *See supra* Section III.C.1(b) (stating that, during the month of September 2019, approximately 51% of all trades executed on exchange and approximately 14% of all volume executed on exchange in corporate stocks occurred in odd-lot sizes and 43% of those odd-lot transactions (representing approximately 39% of all odd-lot volume) occurred at a price better than the NBBO); *supra* Tables 2 and 3 (showing the portion of all trades and volume less than 100 shares, at a price better than the prevailing NBBO, occurring in a quantity that would be defined as a round lot under the proposal).

[249] *But see infra* notes 250–252 and accompanying text (discussing stocks that currently have non-100 share round lot sizes). In addition, the proposed amendments to the definition of protected bid or protected offer would also provide clarity to market participants as to whether quotations in the new round lot sizes are protected quotations for purposes of Rule 611, which is responsive to comments made by some Roundtable panelists regarding uncertainty as to whether additional odd-lot quotation information would be protected under

As noted above, exchange rules generally permit the exchange to assign a round lot size other than 100 shares.[250] As of market close on August 8, 2019, 12 stocks had a round lot size other than 100 shares,[251] and because they are round lots, they are protected quotations to the extent that they satisfy the other requirements in the definition.[252] Therefore, Rule 611 currently applies to orders of those stocks in their non-100 share round lot sizes. The proposed amendment to the definition of protected bid and protected offer would mean that the smaller round lot orders in these 12 stocks would no longer be protected quotations, and therefore they would no longer be subject to Rule 611. The Commission preliminarily believes that the rule should be consistently applied to protected quotations of 100 shares or more (or quotations of fewer than 100 shares that can be aggregated at a single price into 100 shares or more). The Commission preliminarily believes that a single test for the applicability of the protected quotation definition, without special exceptions for certain stocks, would be simpler, would facilitate compliance with Rule 611, and would set consistent expectations among market participants. Further, the Commission preliminarily believes that competition among broker-dealers, improvements in trading and order routing technology,[253] and the continued applicability of best execution requirements to sub-100 share orders of these stocks would provide sufficient incentives for the attainment of high-quality executions of such orders even in the absence of trade-through protection pursuant to Rule 611.[254]

The Commission is also proposing to delete the references to ''The Nasdaq Stock Market, Inc.'' in the definition of protected bid or protected offer. Since the Nasdaq Stock Market is now a national securities exchange, that language is redundant.

Finally, the locked and crossed markets restrictions of Rule 610 are based on the term ''protected quotation.'' Specifically, Rule 610(d) requires each national securities exchange and national securities association to establish, maintain, and enforce rules that, among other things, require its members to reasonably avoid displaying quotations that lock or cross any protected quotation in an NMS stock and that prohibit its members from engaging in a pattern or practice of displaying quotations that lock or cross any protected quotation in an NMS stock, absent an applicable exception. Under the proposed amendments to the definition of protected bid or protected offer, ''protected quotation'' will refer to displayed, automated quotations that are the best bids or offers of at least 100 shares of a national securities exchange or association. As a result, quotations in the new, smaller proposed round lot sizes would not be subject to Rule 610(d) and could be locked or crossed.[255]

As with Rule 611, the locked and crossed markets provisions of Rule 610 continue to be the subject of much debate, with some arguing that they create additional market complexity without a clear benefit.[256] Recently, a Subcommittee of the Commission's EMSAC advocated that the EMSAC recommend that the Commission consider repealing the locked and crossed markets provisions of Rule 610 on a pilot basis to test its impact, in conjunction with an access fee pilot.[257] In light of the concerns about the existing scope of the locked and crossed markets provisions of Rule 610, the Commission preliminarily believes that such provisions should not be extended to smaller sized quotations reflected in the proposed definition of round lot. In addition, the Commission preliminarily believes that market forces, such as the economic incentives of market participants to obtain the best price and resolve locked or crossed markets, as well as improvements in trading and order routing technology,[258] are sufficient to mitigate excessive locking or crossing of quotations in the new round lot sizes and to resolve such locked or crossed markets efficiently.

The Commission requests comment on the proposed amendments to the definition of protected bid or protected offer in proposed Rule 600(b)(69). In particular, the Commission solicits comment on the following:

29. Do commenters believe that the Commission's proposed amendments to the definition of protected bid or protected offer are an effective way to continue to require order protection for 100 share orders but not for smaller orders, or would an alternative be better? Please explain.

30. Do commenters believe that the definition of NBBO should reflect the proposed round lot sizes or should it remain consistent with the 100-share protected quotation? Why or why not?

31. Do commenters believe that Rule 611 should be extended to orders in the smaller round lot sizes set forth in the proposed definition of round lot? Why or why not? If Rule 611 were to be extended to the proposed smaller round lot sizes, would there be any negative or unintended consequences? Please explain in detail.

32. Do commenters believe it would be costly for market participants to adjust procedures and systems to comply with Rule 611 and prevent trade-throughs at the smaller round lot sizes? Please describe the necessary changes and any consequent costs in detail.

33. Do commenters believe it would be costly for market participants to

Rule 611. *See supra* note 179 and accompanying text.

[250] *See supra* note 141.

[251] Of the 12 stocks that had non-100 share round lot sizes, ten had a round lot of ten, and two had a round lot of one. Seven are common stocks, and five are preferred stocks. Prices of these stocks ranged from about $27 to over $300,000. *See supra* note 141 and accompanying text. Currently, each of these stocks is thinly-traded. For example, during the third quarter of 2019, each of these stocks had: An average daily share volume below 40,000, with most trading only hundreds of shares a day; an average trade count of less than 3,200, with some trading only dozens of times per day; and an average daily dollar volume of less than $130 million, with most trading on average less than $1 million per day.

[252] A ''protected bid or protected offer'' is defined as a ''quotation in an NMS stock that (i) is displayed by an automated trading center; (ii) is disseminated pursuant to an effective NMS plan; and (iii) is an automated quotation that is the best bid or best offer of a national securities exchange . . . or national securities association.'' Rule 600(b)(61), 17 CFR 242.600(b)(61). ''Protected quotation means a protected bid or protected offer.'' Rule 600(b)(62), 17 CFR 242.600(b)(62). As explained above, ''protected quotations'' must be round lots, and exchange rules permit round lot sizes other than 100, so quotes in these stocks in their non-100 round lot sizes are ''protected quotes.'' *See supra* notes 141, 235. Similarly, other rules in Regulation NMS that apply to round lots as a result of references to ''bid or offer'' or other defined terms that directly or indirectly reference ''round lot,'' such as Rules 602, 603, 604, and 605, also apply to 1 or 10 share round lot quotes of these stocks.

[253] *See supra* notes 241–244 and accompanying text.

[254] *See supra* note 245.

[255] For example, pursuant to the proposed definitions of round lot and protected bid or offer, a 20 share buy order for a stock that had an average monthly closing price of between $50.01 and $100.00 could be locked or crossed.

[256] *See* Memorandum to EMSAC from the Subcommittee, *supra* note 236; Letter from Joanna Mallers, Secretary, FIA Principal Trading Group, to Brent J. Fields, Secretary, SEC, 2–3 (Mar. 13, 2017), *available at https://www.sec.gov/comments/s7-21-16/s72116-1686170-149597.pdf* (recommending the Commission review Rule 610(d) in light of increased complexity associated with restrictions on locking and crossing quotations); Letter from William R. Harts, CEO, Modern Markets Initiative, to Brent J. Fields, Secretary, SEC (Dec. 9, 2016), *available at https://www.sec.gov/comments/s7-21-16/s72116-9.pdf* (recommending the Commission review the prohibition on locking or crossing quotations in light of the unnecessary complexity and investor confusion).

[257] *See* Memorandum to EMSAC from the Subcommittee, *supra* note 236.

[258] *See supra* notes 241–244 and accompanying text.

adjust procedures and systems to comply with Rule 611 and prevent trade-throughs at 100 share order sizes when the new round lot size may be smaller? Please describe the necessary changes and any consequent costs in detail. Please also discuss how this differs meaningfully from today, if at all, for market participants that are currently using proprietary data feeds that include odd-lot information.

34. Do commenters believe that the best execution obligation, combined with the greater transparency that the Commission is proposing for smaller-sized orders in higher-priced stocks, is sufficient, in the absence of the order protection rule, for market participants to engage with the liquidity represented by orders in the proposed round lot sizes to obtain the best execution for smaller-sized customer orders?

35. Should the Commission maintain the applicability of Rule 611 to the small number of stocks [259] that currently have a round lot other than 100? Why or why not?

36. Do commenters agree with the proposal not to extend Rule 610's locking and crossing requirements to orders with the proposed smaller-round lot sizes? If not, why not? Do commenters have views or data on the frequency with which smaller-sized orders would be locked or crossed? Please explain. Would it be costly to apply locking and crossing prevention mechanisms to the new round lot sizes? Please explain.

(iii) Proposed Amendments to the Definition of National Best Bid and National Best Offer

Today, the NBBO is calculated by the exclusive SIPs and disseminated over the consolidated tapes.[260] The NBBO is defined in Rule 600(b)(43) as the best bid and best offer [261] for an NMS security [262] that is calculated and disseminated on a current and continuous basis by the exclusive SIPs. The definition further provides that if two or more market centers transmit identical bids or offers for an NMS security, the best bid or best offer shall be determined by ranking all identical bids or offers first by size (giving the highest ranking to the bid or offer associated with the largest size) and then by time (giving the highest ranking to the bid or offer received first in time). Accordingly, the NBBO reflects one market center that is the best bid and one market center that is the best offer across all market centers.

As noted above, the proposed round lot definition would affect the calculation of the NBBO by requiring that the best bids and offers transmitted by the SROs to be in the new round lot sizes.[263] Accordingly, the proposed definition of round lot, if adopted, would result in an NBBO that reflects the smaller round lot sizes.

The proposed definition of round lot does not necessitate changes to the definition of NBBO. However, as discussed further below, the Commission is proposing a decentralized consolidation model where competing consolidators and self-aggregators would replace the exclusive SIPs. Therefore, the Commission is proposing amendments to the definition of NBBO to reflect that competing consolidators and self-aggregators, rather than the exclusive SIPs, would be calculating the NBBO in the proposed decentralized consolidation model. In addition, to accommodate this proposed decentralized consolidation model, the Commission is proposing to bifurcate the NBBO definition between NMS stocks and other NMS securities (*i.e.,* listed options) to reflect that the proposed decentralized consolidation would apply only with regard to NMS stocks, and therefore the exclusive SIP for options would continue to be responsible for calculating and disseminating the NBBO in listed options.[264] The proposed changes to the definition of NBBO would not impact the manner in which the NBBO is calculated for NMS stocks or listed options.

Specifically, the NBBO for an NMS stock would be the best bid and best offer for such stock that is calculated and disseminated on a current and continuing basis by a competing consolidator or calculated by a self-aggregator.[265] The Commission is proposing to remove references to a plan processor for NMS stocks because under the proposed decentralized consolidation model, there would not be plan processors. Further, competing consolidators and self-aggregators would have to calculate the NBBO in the same manner as it is calculated by the exclusive SIPs today, including the method currently set forth in the definition of NBBO for determining the best bid or offer in the event that two or more market centers transmit identical bid or offer prices.

The Commission requests comment on the proposed amendments to the definition of national best bid and national best offer in proposed Rule 600(b)(50). In particular, the Commission solicits comment on the following:

37. What are commenters' views on the proposed amendments to the definition of national best bid and national best offer? Do the proposed amendments make appropriate adjustments to the definition to accommodate the proposed introduction of a consolidated market data distribution model with competing consolidators and self-aggregators? Are any additional amendments needed, whether to the definition of NBBO or to other provisions? Please be specific.

2. Depth of Book Data

Core data currently lacks quotation information in NMS stocks beyond the best round lot quotes of each SRO, commonly referred to as the ''top of book.'' However, as regulatory changes and market developments, such as decimalization, have increased the significance of information on quotes away from the best prices,[266] some have suggested that core data be expanded to include certain depth of book data (*i.e.,* quotations and aggregate size at prices outside the BBO).[267]

The Commission is proposing to define core data to include certain

[259] *See supra* note 141.

[260] In addition, market participants that purchase exchange proprietary feeds may calculate their own NBBOs for their internal purposes.

[261] As discussed above, the best bid or best offer for an NMS stock of an exchange may contain multiple prices that are better than the best bid or best offer to the extent that an exchange aggregates better priced odd-lots and provides them to the exclusive SIPs at the least aggressive price that forms a round lot.

[262] The definition of NMS security is broader than NMS stock and includes ''any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.'' 17 CFR 242.600(47).

[263] *See supra* Section III.C.1(d)(i).

[264] The competing consolidator model described herein addresses the current market data infrastructure for NMS stocks and not the exclusive SIP for options. *See infra* note 417.

[265] *See infra* notes 499–502 and accompanying text.

[266] *See infra* notes 276–277 and accompanying text.

[267] *See, e.g.,* Roundtable Day One Transcript at 120 (Jeff Brown, Charles Schwab) (''So our recommendation for this panel and for this day is that the SEC move to impose . . . depth of book on the SIP.''). Suggestions for enhancing core data, however, have failed to garner the support by participants to the Equity Data Plans necessary for action. *See infra* Section III.C.2(c); *supra* note 164 and accompanying text; *supra* Section II.A (discussing the distinction between the exclusive SIPs and proprietary DOB data feeds and market participants' views regarding their ability to use core data to be competitive in today's markets and provide best execution to their customers). *See also, e.g.,* NYSE Sharing Data-Driven Insights—Stock Quotes and Trade Data: One Size Doesn't Fit All (Aug. 22, 2019), *available at https://www.nyse.com/equities-insights#20190822* (proposing to replace the exclusive SIP feeds with three tiered levels of service, including certain DOB data, based on the needs of specific types of investors).

''depth of book data.'' Specifically, depth of book data would be defined to include aggregated quotes at each price between the best bid (and best offer) and the protected bid (and protected offer) (if different), as well as the five price levels above the protected offer and below the protected bid.[268] The Commission preliminarily believes this approach would approximate the level of liquidity information available to market participants at the best bid or offer prior to decimalization and enable market participants to use proposed core data to trade in a more informed and effective manner.[269]

(a) Regulatory Background

Regulation NMS and the Equity Data Plans neither require nor prohibit the collection, consolidation, or dissemination of depth of book data. Rule 602 requires that national securities exchanges and associations make available their best bids and best offers, which are defined in Rule 600(b)(8) as the highest priced bid and lowest priced offer. Similarly, Rule 603(b) requires the dissemination of an NBBO, and the definition of NBBO in Rule 600(b)(43) refers to best bids and best offers. Market participants that want depth of book data for trading must rely upon the proprietary feeds offered by the exchanges, which include varying degrees of depth of book data.[270]

In adopting Regulation NMS, the Commission considered the scope of quotations to which trade-through protection should apply under Rule 611. The Commission decided to apply Rule 611 to protected quotations [271] but not to depth of book quotations.[272] Similarly, the Commission determined not to require that depth of book quotations be included in core data, reasoning that investors who needed depth of book data would be able to obtain that data from markets or third-party vendors.[273] However, the Commission acknowledged that depth of book data is important to investors and updated former Exchange Act Rule 11Ac1–2 (redesignated as Rule 603) to address the independent dissemination of depth of book and other market data by the exchanges.[274] After the adoption of Regulation NMS in 2005, exchanges began to sell their proprietary data products separately from the core data required by Rule 603(b) of Regulation NMS.[275]

(b) Market Evolution

The decimalization of securities pricing in 2001, and the resulting shift away from the larger fractional quoting and trading increments,[276] had significant implications for the amount of liquidity available at the top of book, the transparency of order book liquidity, and the need for market participants to obtain depth of book information. With the larger quoting and trading increments associated with fractional quoting, such as one-sixteenth of a dollar, trading interest was distributed across fewer price points and more liquidity (*i.e.,* aggregate order interest) was concentrated at the top of book. For example, as the Commission noted in adopting Regulation NMS, ''depth-of-book quotations have become increasingly important as decimal trading has spread displayed depth across a greater number of price points.'' [277]

Since the implementation of decimalization, market participants have raised concerns about reduced price transparency and difficulty executing large transactions at the best prices due to lower concentrations of trading interest at the top of book.[278] In the *Report to Congress on Decimalization,* required under Section 106 of the Jumpstart Our Business Startups Act, Commission staff noted academic literature that found that quoted depth, on average, declined after decimalization.[279]

(c) Comments and Roundtable Discussion

These developments have led market participants to call for depth of book data to be distributed through the Equity Data Plans. In connection with the Roundtable, several panelists and commenters recommended adding depth of book data to SIP data or otherwise emphasized their views about

[268] *See supra* Section III.C.1(d).

[269] *Id. See also infra* notes 310–313 and accompanying text (describing how depth of book data can be used to optimize order placement and to provide directional signals regarding near-term market movements.).

[270] For example, CBOE One Premium offers five levels of aggregated depth while NYSE XDP Integrated, Nasdaq Total View, and CBOE Depth offer complete depth of book.

[271] *See supra* note 115.

[272] Specifically, the Commission considered a ''Voluntary Depth Alternative'' under which, in addition to protecting the best bids and offers of each SRO (the Market BBO Alternative), depth of book quotations that markets voluntarily disseminate in the consolidated quotations stream would be protected as well. *See* Regulation NMS Adopting Release, *supra* note 10, at 37529. The Commission decided to adopt the Market BBO Alternative, explaining that it would represent a major step toward achieving the objectives of intermarket price protection but with fewer of the costs and drawbacks associated with the Voluntary Depth Alternative. The Commission noted that the Market BBO Alternative will promote best execution for retail investors on an order-by-order basis, given that most retail investors justifiably expect that their orders will be executed at the NBBO and that the Market BBO Alternative would not require an expansion of the data disseminated through the exclusive SIP Plans. *Id.* at 37530.

[273] *See* Regulation NMS Adopting Release, *supra* note 10, at 37567. In making that determination, the Commission stated that this would be ''a competition-driven outcome [that] would benefit investors and the markets in general.'' *See id.* at 37530.

[274] *See* Regulation NMS Adopting Release, *supra* note 10, at 37565; 17 CFR 242.603(a)(2) (an exchange ''that distributes information with respect to quotations for or transactions in an NMS stock to a securities information processor, broker, dealer, or other persons shall do so on terms that are not unreasonably discriminatory''). While the pre-Regulation NMS rules did not prohibit the independent distribution of quotes by individual SROs, Rule 603(a) was intended to impose ''uniform standards'' to such distribution (*i.e.,* the ''fair and reasonable'' and ''not unreasonably discriminatory'' standards). *See* Regulation NMS Adopting Release, *supra* note 10, at 37569. Prior to Regulation NMS, however, SROs and their members were prohibited from disseminating their trade reports independently. *Id.* at 37589.

[275] *See supra* note 19 and accompanying text.

[276] *See* Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000) (directing the National Association of Securities Dealers and the national securities exchanges to act jointly in developing a plan to convert their quotations in equity securities and options from fractions to decimals).

[277] Regulation NMS Adopting Release, *supra* note 10, at 37592; *see also* Securities Exchange Act Release No. 50870 (Dec. 16, 2004), 69 FR 77424 (Dec. 27, 2004) (''the initiation of trading in penny increments in 2001 transformed the equity markets. The number of quotation updates increased, and the quoted size at any particular price level dropped'').

[278] *See, e.g.,* Regulation NMS Adopting Release, *supra* note 10, at 37529 (noting a comment from the Consumer Federation of America concerning ''complaints that decimal pricing has reduced price transparency because of the relatively thin volume of trading interest displayed in the best bid and offer''); Letter from Craig S. Tyle, General Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, Commission (Nov. 20, 2001), *available at https://www.sec.gov/rules/concept/s71401/tyle1.htm#P41_3920* (''As we have previously noted, the reduction in quoted market depth as the minimum quoting increment has narrowed to a penny has adversely affected institutional investors' ability to execute large orders . . . Preliminary data has shown that, post-decimalization, it has become more difficult for large institutional orders to be filled entirely at the inside.'').

[279] Report to Congress on Decimalization, 10–11 (July 2012), *available at https://www.sec.gov/news/studies/2012/decimalization-072012.pdf.* Cumulative depth at competitive prices did not change, however. *Id. See also* Phil MacKintosh, What is Liquidity? (Dec. 12, 2019), *available at https://www.nasdaq.com/articles/what-is-liquidity-2019-12-12* (stating that while smaller quantity of the NBBO and smaller average trade sizes may suggest falling liquidity, depth of book liquidity suggests that overall liquidity is stronger than ever before); Citadel Securities Market Lens—Has Market Structure Evolution Made Equities Less Liquid (Sep. 2019), *available at https://s3.amazonaws.com/citadel-wordpress-prd102/wp-content/uploads/sites/2/2019/09/27211934/Market-Lens-Has-Market-Structure-Evolution-Made-Equities-Less-Liquid.pdf* (analyzing full depth of displayed liquidity from the exchanges' proprietary data feeds and finding that liquidity remained stable over the past eight years).

the importance of depth of book data.[280] One panelist stated that the exclusive SIPs could be upgraded and made ''relevant again'' by adding depth of book data, which would benefit retail investors by giving them information on which direction a stock may be moving and what type of order they may need to use.[281] Another panelist stated that both his firm and the brokers it employs cannot rely solely on SIP data, as they believe they need depth of book data to have a full view of the market and to trade competitively, particularly with respect to large orders.[282] One commenter stated that the Commission should require depth of book data to be included in SIP data and recommended adding at least five levels of depth.[283]

Some panelists and commenters went further, suggesting that depth of book data (or data provided on the exchange proprietary feeds more generally) is needed to fulfill best execution obligations.[284] One panelist stated that paying for full depth of book data from each exchange is essential to effective order routing and to fulfilling best execution obligations, noting that if his firm did not get depth of book—top of book and many levels away—it could not provide best execution to its clients.[285] Another commenter noted that broker-dealers do not have the option to forgo buying proprietary data because SIP data has less content and is slower, and that, even if the Commission provided a safe harbor that best execution requirements may be satisfied by relying on SIP data, buying proprietary data would still be necessary from a business perspective.[286]

However, some panelists were reluctant to embrace the idea of adding depth of book data to SIP data and pointed out possible negative impacts from doing so. One panelist representing a retail brokerage firm stated that depth may be important for active traders and that his firm has platforms that incorporate it but added that depth is less important for retail investors who trade infrequently and that some of his firm's platforms do not incorporate it.[287] This panelist also stated that there could be technological challenges and latency implications (*i.e.,* added latency associated with the need to process additional message traffic) to adding depth of book data to SIP data.[288] Furthermore, several panelists noted that adding depth of book data to the SIP data, particularly on an order-by-order basis, could be confusing, but some suggested that the data could be aggregated at certain price levels or otherwise simplified.[289]

In addition, some commenters stated that depth of book data is unnecessary for best execution and not useful for retail investors and other market participants.[290] In an article submitted to the comment file for the Roundtable, one commenter expressed the view that depth of book data is not helpful for many types of market participants, citing a 2014 statistic that only 3.3% of all trades take place outside the NBBO, where depth of book information would be particularly useful. The commenter also noted that the Commission has stated that depth of book data is not necessary for a broker to comply with its best execution obligations.[291]

(d) Commission Discussion and Proposal

Decimalization led to a dispersion of quoted volume away from the top of book.[292] Consequently, the top of book (or NBBO) currently shown in SIP data has become less informative, and some market participants have come to view depth of book data as essential both to their efforts to trade competitively and to provide best execution to customer orders.[293] The Commission preliminarily believes that: (1) The lack of depth of book information in SIP data creates a significant information asymmetry between SIP data and proprietary data; and (2) the availability of the additional information could help enhance the best execution analyses of market participants who currently rely solely on SIP data.

Accordingly, the Commission preliminarily believes that core data, as proposed, should include certain depth of book data, including aggregated orders at each price between the best

[280] *See* Roundtable Day Two Transcript at 245 (Tyler Gellasch, Healthy Markets) (stating that the exclusive SIPs should include depth of book data (as well as auction imbalance data and odd-lot quote data)); Roundtable Day One Transcript at 228–29 (Joseph Wald, Clearpool Group) (explaining that the lack of depth of book and auction data on the exclusive SIP feeds needs to be addressed); Letter to Brent J. Fields, Secretary, Commission, from Joe Wald, Chief Executive Officer, The Clearpool Group (Oct. 23, 2018) (''Clearpool Group Letter'') (''We believe that certain information currently provided through proprietary data feeds, for example, imbalance data and order depth-of-book information, should be considered core data and provided to all market participants through the SIP.''); MFA and AIMA Letter at 6 (stating that its members ''purchase proprietary market data (*e.g.,* depth-of-book and imbalance data) from exchanges for a variety of reasons, including strategy implementation, risk-analysis, best-execution, less latency than other sources and to fulfill fiduciary obligations.'').

[281] *See* Roundtable Day One Transcript at 119–120 (Jeff Brown, Charles Schwab).

[282] *See* Roundtable Day One Transcript at 136, 165–66 (Simon Emrich, Norges Bank Investment Management).

[283] *See* SIFMA Letter II at 2 (stating that retail firms generally use one level of depth for order routing and institutional firms generally use up to five levels of depth (sometimes as much as ten) and that the Commission should balance the need for more comprehensive information with the additional cost and potential increase in latency from including additional quotes, as well as adjust the exclusive SIP subscriber fee model to account for firms that do not need depth of book data).

[284] *See* Roundtable Day One Transcript at 192–193 (Jamil Nazarali, Citadel Securities) (stating that proprietary feeds are required for best execution); Roundtable Day One Transcript at 48 (Prof. Hal Scott, Committee on Capital Markets Regulation) (making a similar statement); Roundtable Day Two Transcript at 58–59 (Prof. Robert Bartlett, UC Berkeley) (making a similar statement); MFA and AIMA Letter at 3–4 (stating that broker-dealers that do not have depth of book information will be challenged to provide best execution).

[285] *See* Roundtable Day One Transcript at 27, 57–58, 73 (Doug Cifu, Virtu Financial); Letter to Brent J. Fields, Secretary, Commission, from Douglas A. Cifu, Chief Executive Officer, Virtu Financial Inc., 4 (Oct. 23, 2018) (''Virtu Letter I'') (''Simply put, Virtu could not fulfill its obligations to its myriad of retail customers and institutional clients without full depth of book market data feeds and robust exchange connectivity features that the SIP feeds alone do not offer.'').

[286] *See* Letter to Brent J. Fields, Secretary, Commission, from Mehmet Kinak, Global Head of Systematic Trading and Market Structure, and Jonathan D. Siegel, Vice President—Senior Legal Counsel, T. Rowe Price, 2 (Jan. 10, 2019) (''T. Rowe Price Letter'').

[287] *See* Roundtable Day One Transcript at 162–163 (Matt Billings, TD Ameritrade).

[288] *Id.; see also* Roundtable Day Two Transcript at 74 (Michael Blaugrund, NYSE).

[289] *See* Roundtable Day One Transcript at 227 (Chris Isaacson, Cboe) (stating that he would not go as far as to add depth of book data to the consolidated market data, stating that doing so could potentially cause confusion, and emphasizing the difference between the plan processors and non-SIPs); Roundtable Day One Transcript at 230 (Ronan Ryan, IEX) (stating that adding depth data could be confusing, but suggesting that perhaps there could be simpler alternatives, such as an aggregated size at each price level rather than order-by-order); Roundtable Day One Transcript at 232 (Michael Friedman, Trillium Management) (suggesting that perhaps some abbreviated version of depth rather than full depth of book could be added to the consolidated market data); Roundtable Day Two Transcript at 70 (Adam Nunes, Hudson River Trading) (cautioning against trying to force every market's depth of book into a single feed).

[290] *See* Letter to Brent J. Fields, Secretary, Commission, from Thomas Wittman, Executive Vice President, Head of Global Trading and Market Services and CEO, Nasdaq Stock Exchange, 11 (Oct. 25, 2018) (''Wittman Letter'') (''Main Street investors do not need the exchanges' proprietary depth-of-book data offerings, and the fact that some firms choose to purchase them has no adverse consequence to the Main Street investor. Nearly 97% of trades occur at or within the NBBO, reflecting that most customers do not require any sort of depth-of-book data.''); NYSE Group Letter at 13 (''NYSE Group believes that the Commission's prior conclusion that retail investors do not need depth-of-book data has not changed.'').

[291] *See* Letter to Brent J. Fields, Secretary, Commission, from Charles M. Jones, Robert W. Lear Professor of Finance and Economics, Columbia Business School, 15–16 (Oct. 21, 2018) (''Jones Letter'') (citing Securities Exchange Act Release No. 59039, *supra* note 242).

[292] *See supra* Section III.C.2(b).

[293] *See supra* notes 278, 280–286 and accompanying text.

bid and best offer and the protected bid and protected offer (if different), as well as several price levels above and below the protected bid and protected offer. The Commission believes that the number of additional price levels should strike an appropriate balance by significantly enhancing the utility of proposed core data for a wide range of market participants, without risking the excessive message traffic [294] or complexity that might result from the inclusion of full depth of book information in proposed core data. The Commission preliminarily believes that this balance is appropriately struck at five price levels (below and above the protected bid and protected offer) as this would approximate the level of liquidity available to market participants at the best bid or offer prior to decimalization.[295] The Commission is seeking comment on whether and to what extent depth of book data should be included in the proposed definition of core data.

Specifically, under proposed Rule 600(b)(25), ''depth of book data'' would be defined as all quotation sizes at each national securities exchange, aggregated at each price at which there is a bid or offer [296] that is lower than the best bid down to the protected bid and higher than the best offer up to the protected offer; and all quotation sizes at each national securities exchange, aggregated at each of the next five prices at which there is a bid that is lower than the protected bid and offer that is higher than the protected offer.

Although the Commission determined not to add depth of book data to core data in adopting Regulation NMS,[297] the Commission recognizes that the market data needs of market participants continuously evolve. Demand for more content-rich exchange proprietary feeds has increased substantially in the years since the adoption of Regulation NMS, indicating a growing need by market participants for additional data, including depth of book data,[298] in the increasingly fast, electronic, and dispersed markets that have developed since 2005.[299] The Commission preliminarily believes that enriching the content of the data that is made available to investors and market participants by including depth of book data, as defined, in the proposed core data would promote fairer markets by reducing the information asymmetry between market participants who subscribe to the exchanges' proprietary depth products and those who rely on SIP data. In addition, the Commission preliminarily believes that many market participants would find depth of book data useful for trading in a more informed and effective manner in today's markets.

As proposed, core data would include the best bids and offers and the protected quotes of each exchange, which market participants need to comply with legal and regulatory requirements, such as the duty of best execution and Rule 611. The Commission preliminarily believes that information on any trading interest between the best bids or offers and the protected quotes, if they are different, would be of keen interest to market participants. Therefore, the Commission is proposing to include aggregated quotation sizes at each price where there is a bid or offer in that range in the definition of depth of book data.

However, the Commission preliminarily believes that not all individual quotations away from the best prices should be added to proposed core data. While there may be some market participants that need total visibility into exchange order books, the Commission does not believe, at this time, that complete depth of book data should be required to be made available as proposed core data. The addition of complete, order-by-order depth of book data to proposed core data would represent an enormous volume of information, which could increase latencies in the provision of proposed core data and introduce complexity that might impair the usability of such data for many subscribers. The Commission's proposed definition of depth of book data is intended to incorporate into core data additional quotation information that would be useful to a broad array of market participants for trading [300] and to thereby further the goals of the national market system.[301] The Commission is not supplanting the proprietary depth offerings of the exchanges that contain additional content and that may be more appropriate for certain market participants or more specialized use cases.

The Commission recognizes that market participants have diverse market data needs. The discussions at the Roundtable and the comments received, however, suggest that many market participants need more than the best bids, best offers, and the NBBO disseminated by the exclusive SIPs in order to trade competitively and to optimize the placement of customer orders.[302] As noted above, the Commission's proposed definition of depth of book data seeks to approximate the quotes that market participants were able to access on the exclusive SIPs prior to decimalization, which the Commission preliminarily believes would significantly enhance the usefulness of proposed core data. The Commission preliminarily believes that its proposed definition of depth of book data strikes a balance between enhancing the usefulness of core data for the many market participants that cannot rely entirely on SIP data, and limiting the amount of data disseminated to limit complexity and the processing demand on systems for market participants that do not need full depth of book visibility.[303] The

[294] As discussed below, aggregated quotation sizes at the price levels between the best quotes and protected quotes and the five levels above and below the protected quotes, particularly for the most liquid stocks, represent only a subset of all depth of book price levels at which there are quotations and could hence be represented in fewer messages.

[295] Prior to decimalization, when stocks were quoted in sixteenths of a dollar ($0.0625), there were five one cent increments between each permissible quoting increment. For example, market participants could bid $20.0625 or bid $20.125 but not $20.07, $20.08, $20.09, $20.10, $20.11. Decimalization permitted quoting at these intermediate, one-cent price levels, spreading quotation volume to these price levels. As a result of the Commission's proposal to define depth of book data to include aggregated quotation sizes at the five levels above and below the protected quotations, the proposed core data would provide transparency into the quotation interest that is comparable to the information that was available at the top of the book prior to decimalization.

[296] *See supra* Section III.C.1(d)(i) for a discussion of the proposed definition of round lot and its effect on the terms bid and offer. As discussed above, bids and offers would reflect the proposed round lot sizes. *See also* Section III.C; *supra* note 128 and accompanying text for a discussion of proposed odd-lot aggregation.

[297] *See supra* note 48.

[298] *See supra* note 275, 277–278 and accompanying text.

[299] *See supra* notes 241–244 and accompanying text; *infra* notes 310–313 and accompanying text (discussing how depth of book data is used in order placement and other trading decisions).

[300] Section 11A(c)(1)(B) of the Exchange Act, 15 U.S.C. 78k–1(c)(1)(B) (stating that the Commission shall prescribe rules to ''assure . . . the fairness and usefulness of the form and content of'' information with respect to quotations for or transactions in securities).

[301] *See, e.g.,* 15 U.S.C. 78k–1(a)(1)(C) (''The Congress finds that . . . [i]t is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure—(i) economically efficient execution of securities transactions; (ii) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets; (iii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities; (iv) the practicability of brokers executing investors' orders in the best market; and (v) an opportunity . . . for investors' orders to be executed without the participation of a dealer.'').

[302] *See supra* text accompanying notes 280–286.

[303] As discussed above, the inclusion of a limited number of price levels in the proposed definition of depth of book data means that fewer data

Continued

proposed definition of depth of book seeks to balance the needs of different market participants, while reducing the information asymmetries that exist today in the provision of SIP data and proprietary data.

Staff believes that there is a substantial amount of quotation volume several levels below the best bid and above the best offer. For example, staff reviewed depth of book quotations for corporate stocks using data from July 19, 2019. This analysis revealed that for this day, indeed, there was substantial quotation volume several levels below the best bid (the ask side was not examined). During active parts of the trading day, there is quotation interest at every $0.01 increment at least ten levels out for the most liquid stocks; for the least liquid stocks, there is a large gap between the best bid and the next highest bid, and large gaps are generally also present between the next several bid levels. This is consistent with the Commission's proposal to define the depth of book price levels as the first five levels ''at which there is a bid or offer,'' rather than alternatives such as a fixed $0.05 band around the best quotes, since the former would capture much of the depth of book quotation information for less liquid stocks.[304] In addition, the staff review found a significant percentage of the total notional value of all depth of book quotations for both liquid and illiquid stocks falls within the first five price levels. The Commission preliminarily believes that requiring aggregated quotation information at the first five price levels above and below the protected quote range is a reasonable way to delineate the trading interest that would be useful to a variety of market participants to support more effective quoting and trading. On the other hand, while quotations at price levels further away from the best bid and offer may be relevant for market participants handling very large orders or orders in highly illiquid securities for which liquidity at the top of the book and the next five price levels is not sufficient to fully execute the order, the Commission preliminarily believes that liquidity at price levels further away is less likely to provide relevant or immediately actionable information to many market participants.[305]

While some market participants have stated that depth of book data is necessary to fulfill their best execution obligations, other commenters disagreed and pointed out that the Commission previously stated that depth of book data is not necessary for best execution.[306] Several factors are considered in determining whether a broker-dealer has ''use[d] reasonable diligence to ascertain the best market'' [307] for a customer order and fulfilled its best execution obligations.[308] The Commission is not stating that a broker-dealer must always use all proposed depth of book data, under all circumstances, to provide best execution to its customers. However, the Commission preliminarily believes that the expanded set of proposed core data, including the proposed depth of book data, provides additional information that in many circumstances would be useful to a broker-dealer's best execution analysis.[309]

Where liquidity is distributed over multiple price points and less liquidity is available at the top of book,[310] depth of book data is of increased importance to market participants for a number of reasons. Depth of book data can assist SORs and electronic trading systems with the optimal placement of orders across markets. For example, the Commission preliminarily believes that the proposed depth of book data would better inform traders on how to optimally place liquidity taking orders (*i.e.,* marketable orders that execute against the liquidity of resting limit orders) that are larger than the displayed best bid or best offer.[311] In addition, the Commission preliminarily believes that proposed depth of book data would assist market participants in determining how best to use liquidity providing orders (*i.e.,* non-marketable orders that will be posted on an exchange's order book without immediately executing) at prices away from the best bid or offer by providing insight into the length of order book queues.[312] Finally, the Commission preliminarily believes that the proposed depth of book data would provide market participants with directional signals to help inform them about near-term market movements based upon aggregate market imbalance information.[313]

messages would be required than would be the case if full depth of book was proposed. *See supra* note 294. Accordingly, the proposal would place lower processing demands on systems than if full depth of book data were included in the definition of depth of book data. Similarly, commenters have recommended the addition of five levels of depth to core data, emphasizing the importance of ''balanc[ing] the need for more comprehensive information with the additional cost and potential increase in latency from including additional quotes.'' *See supra* note 283; SIFMA Letter II at 2. The Commission is soliciting comment on the extent of depth of book data that best strikes this balance, specifically by seeking quantitative data from market participants regarding any complexity or processing implications associated with the proposed definition of depth of book data.

[304] Moreover, because a ''bid or offer'' is defined in terms of ''round lot,'' the proposed definition of round lot in effect would establish a minimum size requirement for depth price levels so that, for example, a small number of one share orders at an away price for a stock whose prior calendar month's average closing price on the primary listing exchange was under $50 would not count as one of the price levels. The Commission acknowledges that the inclusion of price levels ''at which there is a bid or offer'' in the proposed definition of depth of book data could include quotations beyond what would have been available at the top of the book prior to decimalization for less liquid stocks, but believes that this approach would approximate the level of liquidity available at the top of the book prior to decimalization for more liquid stocks.

[305] *See* SIFMA Letter II at 2 (stating that SIFMA members that are retail firms generally use one level of depth for order routing, while SIFMA members that are institutional firms generally use up to five levels of depth, and sometimes as much as ten.).

[306] *See supra* notes 284–291 and accompanying text.

[307] FINRA Rule 5310.

[308] *See Kurz* v. *Fidelity Management & Research Co.,* 556 F.3d 639, 640 (7th Cir. 2009) (describing the ''duty of best execution'' as ''getting the optimal combination of price, speed, and liquidity for a securities trade''); *Geman* v. *SEC,* 334 F.3d 1183, 1186 (10th Cir. 2003) (noting that ''the duty of best execution requires that a broker-dealer seek to obtain for its customer orders the most favorable terms reasonably available under the circumstances'' (quoting *Newton* v. *Merrill, Lynch, Pierce, Fenner & Smith, Inc.,* 135 F.3d 266, 270 (3d Cir. 1998))).

[309] *See* Order Execution Obligations Release, *supra* note 245.

[310] *See supra* notes 276–277.

[311] For example, if a liquidity taking order is larger than the displayed liquidity at the top of book and seeks to access liquidity at additional price level(s), then information about liquidity at other price levels is valuable in determining where to send an oversized order when trading in a market ecosystem with multiple exchanges. *See, e.g.,* Shmuel Baruch, Who Benefits from an Open Limit-Order Book?, Journal of Business, Vol. 78, No. 4, 1267–1306 (July 2005), *available at https://www.jstor.org/stable/10.1086/430860* (presenting some theoretical results showing that liquidity takers benefit more from an open limit order book).

[312] For example, if a market participant using a particular trading strategy wishes to post orders passively at multiple price levels, depth of book information is valuable in determining the order book queue length (and therefore the ability to achieve beneficial queue priority) at different market centers. Further, depth of book data can assist market participants' trading strategies achieve better queue placement across market centers. *See* Roundtable Day One Transcript at 169 (Adam Inzirillo, BAML) (''So depth of book is important to understand where you are potentially in the queue when you aggregate yourself across the overall market center.''); Exegy, Checklist for Ensuring Best Execution with Historical Trade Performance Analysis (Dec. 6, 2018), *available at https://www.exegy.com/2018/12/checklist-best-execution-trade-performance-analysis/* (''Liquidity can be valuable for executing large volume orders because the orders can be executed with minimal impact to market price. However, very high liquidity can also cause price volatility at a given exchange or time interval that produces slippage. Queue position and message volume are two valuable indicators of this liquidity. A long depth of book or high message volume may signal to traders to re-route an order to a different exchange. However, without a planned strategy for routing an order, slipping may arise.'').

[313] *See, e.g.,* Álvaro Cartea, et al., Enhancing Trading Strategies with Order Book Signals (Oct. 1,

Several Roundtable panelists and commenters raised potential concerns regarding the addition of depth of book data.[314] The Commission preliminarily believes its proposed definition of depth of book data, and its proposal to introduce a definition of core data and a decentralized consolidation model for the dissemination of proposed consolidated market data more broadly, are responsive to these concerns. With respect to the view that depth of book data could be confusing or not of interest to all investors, the Commission is not mandating the consumption of five levels of depth data by all market data subscribers. While, as discussed below, competing consolidators must calculate and generate consolidated market data, as proposed, including depth of book data, and offer it to subscribers, competing consolidators would not be prohibited from developing and providing top of book only or customized depth of book products to customers who desire such products.[315] The effective national market system plan(s) could offer a variety of proposed consolidated market data products geared toward particular categories of end-users, and certain exchanges, recently, have suggested possible approaches for doing so.[316] With respect to the view that including depth of book data could present technical challenges and have latency ramifications, the Commission preliminarily believes the proposal to add five levels of aggregated depth from each exchange, rather than all order-by-order depth, is responsive to these concerns.[317] Restricting depth of book data to the aggregate depth at each price level would limit the number of messages included within proposed core data, making the technological changes required more manageable and mitigating latency concerns. Indeed, the Commission's proposed approach aligns with some of these commenters' suggestions that simpler and more abbreviated versions of depth of book data might be more workable.[318]

In addition, some commenters cited statistics on the high proportion (97%) of trades that execute at or within the NBBO in support of their views that depth of book data is not necessary for retail investors or other market participants.[319] The Commission preliminarily believes that, even if these figures are accurate for the current market, they do not, on their own, persuade the Commission that it should not propose to add depth of book data to core data. The commenters, for example, do not specify whether or not the broker-dealers handling the orders at issue had access to proprietary DOB products for their automated trading systems; if they did, depth of book data may have been contributing to the observed high at-or-within-the-NBBO execution rates. For example, as discussed above, depth of book data can indicate the direction a stock price may be moving, which some market participants factor into the prices at which they place limit orders.[320] Furthermore, in response to the comments that retail investors do not need depth of book data, the Commission preliminarily believes that there are different types of retail investors that have different market data needs and preferences. Some retail investors may not need depth of book information but other, more sophisticated retail investors may find depth of book data useful, as one Roundtable panelist from a retail firm stated.[321] Further, while competing consolidators would have to offer proposed consolidated market data to end-users, they also would be permitted to develop products for their customers that could be customized to their customers' needs.[322] Therefore, a competing consolidator could develop a consolidated market data product that does not contain proposed depth of book data if there is demand.[323] The Commission's proposal aims to provide broker-dealers and other market participants with improved access to meaningful depth of book information, so it can be used to improve order placement or other trading decisions and thereby potentially improve execution quality for investors.

Finally, the proposed definition of core data specifies that odd-lot quotations at the relevant price levels between the national best bid or offer and the protected quotation, and at the five price levels above and below the protected quotation that can be aggregated into at least a round lot, would be included in depth of book data. As discussed above, the Commission preliminarily believes that its proposed definition of round lot reflects trading interest of meaningful size to market participants. The Commission further preliminarily believes that trading interest that is of less than meaningful size (*i.e.,* an odd-lot size), that together with other odd-

2015), *available at http://www.smallake.kr/wp-content/uploads/2015/11/SSRN-id2668277.pdf* (''[O]ur measure of [volume] imbalance [in the limit order book] acts as a strong predictor of the rate of incoming [market orders] as well as the direction and magnitude of price movements following a [market order].''); Charles Cao, et al., The Information Content of an Open Limit-Order Book, Journal of Futures Markets Vol. 29, No. 1, 16–41 (2009), *available at http://www.pbcsf.tsinghua.edu.cn/research/caoquanwei/paper/10.The%20Information%20Content%20of%20an%20Open%20Limit%20Order%20Book.pdf* (''[T]he authors find that the order book beyond the first step is modestly informative and that price discovery measures suggest that the contribution of the order book beyond the best bid and offer is approximately 22%''); Ke Xu, Martin D. Gould, and Sam D. Howison, Multi-Level Order-Flow Imbalance in a Limit Order Book, Mathematical Institute, University of Oxford (Oct. 29, 2019) (''[W]e find that including net order flow deeper into the limit order book improves the goodness-of-fit of the multi-level order-flow imbalance regressions for all of the stocks in our sample, with an improvement of about 65–75% for large-tick stocks and about 15–30% for small-tick stocks. We argue that in many practical applications, improvements of this magnitude are economically meaningful.'').

[314] *See supra* notes 287–289 and accompanying text.

[315] *See supra* Section III.A (explaining that different market participants and different trading applications have different needs for NMS information, that the proposal to expand and modernize the content of NMS information is intended to address the needs of a broad cross-section of market participants, and that the Commission is not specifying minimum data elements needed to achieve best execution).

[316] *See, e.g.,* NYSE Equities Insights, Stock Quotes and Trade Data: One Size Doesn't Fit All (Aug. 22, 2019), *available at https://www.nyse.com/equities-insights* (proposing enhancing the exclusive SIPs by offering depth of book, odd-lot quotes, and primary auction imbalance information in three new tiers of service, each of which would have different levels of data content); *infra* Section IV.B.4.

[317] Today, there are a number of private data vendors that have developed software and infrastructure solutions for consolidating several of the most voluminous depth of book data feeds across equity markets and are providing consolidated depth of book products, which suggest that technical challenges and latency concerns can be addressed.

[318] *See supra* note 289 and accompanying text.

[319] *See supra* notes 290–291 and accompanying text.

[320] Similarly, depth of book data can provide insight into the length of order book queues on different exchanges and therefore the prices at which limit orders can attain queue priority, helping market participants pursue trading strategies involving the placement of liquidity-providing orders that will not execute until the NBBO changes. *See supra* note 312 and accompanying text.

[321] *See supra* note 281 and accompanying text. In addition, another Roundtable panelist whose firm handles the orders of retail customers indicated that his firm needs depth of book data to fulfill its obligations to its retail customers. *See supra* note 285.

[322] *See infra* Section IV.B.1.

[323] Competing consolidators would be required to calculate and generate consolidated market data, including depth of book data as set forth in the Commission's proposed definition, and to offer such data to subscribers. *See* proposed Rule 614(d)(1)–(3). As explained above, the Commission believes that the proposed depth of book data would support the needs of some market participants. *See supra* notes 301–305. However, some market participants may not need the depth of book data specified in the proposed definition. As proposed, market participants would be able to choose the components of consolidated market data that meet their needs, consistent with regulatory requirements, and purchase such data from competing consolidators.

lots aggregates into a round lot, similarly represents trading interest of meaningful size and should be displayed at the most conservative price at which such trading interest could be accessed.[324]

The Commission requests comment on the proposed inclusion of depth of book data in the proposed definition of core data and the definition of depth of book data in proposed Rule 600(b)(25). In particular the Commission solicits comment on the following:

38. Should depth of book data be included in the proposed definition of core data? Why or why not? Do commenters believe the proposed definition of depth of book data would have any negative or unintended consequences? Why or why not?

39. Do commenters believe that the Commission's proposed definition of depth of book data captures the appropriate level of depth data that should be included in the proposed definition of core data? Why or why not? Should the Commission include more or fewer levels of depth or otherwise revise the definition to capture the key depth information that would be useful to market participants? For example, should the Commission require depth only within a $0.05 band of the protected bid and offer rather than the first five price levels at which there is interest?

40. Does the proposed definition of depth of book data adequately balance the need for more information against potential increases in complexity and processing demand that might result from the addition of such depth of book data? If not, where is this balance most appropriately struck in terms of the extent of depth of book data that should be included in the proposed definition of core data? Particularly, what processing demands would be associated with including varying levels of depth of book data? Please consider the proposed five levels of depth of book as well as any other possible depth of book alternatives. Please provide quantitative data and analyses to support your comments.

41. Do commenters believe that the ''at which there is a bid or offer'' language in the Commission's proposed definition of depth of book data establishes an appropriate minimum size threshold (*i.e.,* the existence of at least a round lot of aggregated interest) for inclusion as one of the five price levels? Why or why not? Are there alternative ways to set such a threshold, such as price levels where the volume of interest equals a certain percentage of the volume at the best price?

42. Do commenters believe that odd-lot quotes at the depth price levels that aggregate into at least a round lot should be included in the proposed definition of core data? Why or why not?

43. The proposed definition of depth of book data refers to depth of book quotations on each national securities exchange, as FINRA's Alternative Display Facility (''ADF'') currently does not have quotations submitted to it. Should the proposed definition be formulated to include the depth of book quotations of national securities associations as well to account for the possibility of OTC quotes being reported to the ADF in the future? Why or why not?

3. Auction Information

Even as the proportion of trades executing in auctions has risen, little auction information is currently included in today's SIP data.[325] The Commission is proposing to include auction information, including auction order imbalance and other auction data generated by the exchanges during an auction, in the proposed definition of core data.[326] The Commission preliminarily believes that including auction information, as described below, in the proposed definition of core data would promote the goals of the national market system [327] by conveying important information about orders participating in auctions and helping market participants to participate in auctions in a more informed and effective manner.

(a) Background

Auctions are held pursuant to exchange rules at specified periods during the trading day (*i.e.,* at the open, at the close, or during the day to reopen a stock that has been halted) when continuous trading is not occurring. During an auction, buy and sell orders generally interact at the single price, within limits, that maximizes the trading volume that can be executed. For example, a closing auction generally is held at the end of regular trading hours on the primary listing exchange pursuant to a process set forth in the primary listing exchange's rules to determine a security's official closing price. Typically, market-on-close orders, limit-on-close orders, and orders resting on the primary listing exchange's order book at the time a closing auction begins may participate in a closing auction. However, the rules of a primary listing exchange may also allow other specified order types, such as closing offset orders and D-orders on NYSE or imbalance-only close orders on Nasdaq, to participate in a closing auction.[328] The opening auctions, which generally are held at the start of regular trading hours, also use specialized order types as specified in the rules of the primary listing market.[329]

Auctions conducted by the exchanges, especially opening and closing auctions, have become increasingly important liquidity events in recent years and represent a significant proportion of overall trading volume.[330] One factor

[324] *See supra* notes 129–130, 157 and accompanying text. To the extent that an SRO provides proprietary data products for the purposes of making consolidated market data available to competing consolidators and self-aggregators, any odd-lot quotations that are aggregated in an SRO's existing proprietary data products would be required to be aggregated in a manner consistent with the method set forth in the proposed definition of core data. *See* proposed Rule 600(b)(20).

[325] *See infra* notes 333–334 and accompanying text.

[326] *See* proposed Rule 600(b)(5). The definition of auction information in proposed Rule 600(b)(5) is ''all information specified by national securities exchange rules or effective national market system plans that is generated by a national securities exchange leading up to and during an auction, including opening, reopening, and closing auctions, and disseminated during the time periods and at the time intervals provided in such rules and plans.'' Accordingly, the proposed definition would include auction information that may be developed in the future and added to an SRO's rules that are approved by the Commission pursuant to Rule 19b–4, 17 CFR 240–19b–4.

[327] *See, e.g.,* 15 U.S.C. 78k–1(a)(1)(C) (''The Congress finds that . . . [i]t is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure . . . the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities . . . [and] the practicability of brokers executing investors' orders in the best market.'').

[328] *See, e.g.,* NYSE Rule 7.31(d)(4) (A Discretionary Order, or ''D Order,'' is a ''Limit Order that may trade at an undisplayed discretionary price''); NYSE Rule 13(c)(1) (A Closing Offset, or ''CO,'' Order is ''[a] day Limit Order to buy or sell as part of the closing transaction where the eligibility to participate in the closing transaction is contingent upon: (i) An imbalance in the security on the opposite side of the market from the CO Order; (ii) after taking into account all other types of interest eligible for executing at the closing price, there is still an imbalance in the security on the opposite side of the market from the CO Order; and (iii) the limit price of the CO Order being at or within the price of the closing transaction.''); NYSE Rule 123C; Nasdaq Rule 4702(b)(13)(A) (''An 'Imbalance Only Order' or 'IO Order' is an Order entered with a price that may be executed only in the Nasdaq Closing Cross and only against [market-on-close] Orders or [limit-on-close] Orders.'').

[329] *See, e.g.,* NYSE Open and Closing Auctions, *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Opening_and_Closing_Auctions_Fact_Sheet.pdf* (last accessed Nov. 25, 2019); Nasdaq Opening and Closing Crosses, *available at http://www.nasdaqtrader.com/Trader.aspx?id=OpenClose* (last accessed Nov. 25, 2019).

[330] *See, e.g.,* Rosenblatt Securities, Closing Time: How End-of-Day Auctions are Taking Over U.S. Equity Trading (Jan. 17, 2019) (stating that the

that may be driving the higher concentration of trading in closing auctions is the growth of passive, index-tracking investment strategies through mutual funds, ETFs, and similar products.[331] Since passive strategies and ETFs often track the performance of a benchmark index, and the closing price used in the benchmark index calculation is often set during the closing auction, participation in closing auctions has become increasingly important.[332]

To participate efficiently in auctions conducted by the exchanges, market participants seek information about orders that are participating in the auctions. This includes information about auction order imbalances, which reflect the extent to which auction buy orders exceed auction sell orders (or vice-versa) and are generally provided at periodic intervals leading up to the auction. In addition, primary listing exchanges provide information about the indicative price for the auction based on auction orders received at that time.

Today, only limited auction-related information is included in SIP data.[333] Some NYSE auction data is disseminated through the CTA/CQ SIP,[334] but this reflects only a small subset of the auction-related information that the primary listing exchanges generate. No auction information generated by the other primary listing exchanges, including Nasdaq, NYSE Arca, and Cboe BZX, is distributed through the exclusive SIPs.

By contrast, the primary listing exchanges provide a wide range of auction-related information through their proprietary data products.[335] For example, NYSE provides opening auction information, such as opening order imbalance information and indicative pricing information, only through its proprietary market data products.[336] In addition, with respect to closing auctions, NYSE disseminates order imbalance information approximately every five seconds between 3:50 p.m. and 4:00 p.m., which consists of real-time imbalances between marketable closing orders to buy and marketable closing orders to sell, along with the indicative price at which the auction would occur at that time. This information is available only through NYSE's proprietary market data products.[337] Similarly, Nasdaq,[338]

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percentage of consolidated volume in the executed at the close increased from 4.6% in 2013 to 8.4% in 2018); Financial Times, The 30 Minutes that Have an Outsized Role in US Stock Trading (Apr. 24, 2018), *available at https://www.ft.com/content/9e1f05b4-43e7-11e8-803a-295c97e6fd0b* (''The first and last half-hour of the U.S. trading day now accounts for 39.6 per cent of all volumes, up from 31.5 per cent a decade ago, according to Credit Suisse data. A decade ago about 16 per cent of all trading happened in the final 30 minutes, but that rose to more than 20 per cent in 2012, and almost 25 per cent this year. The closing auction alone—when most ETFs do their rebalancing—now accounts for 8.2 per cent of volumes in 2018, up from 3 per cent in 2007''); Greenwich Associates, Stock Trading Volumes Gravitate to Open and Closing Auctions (Feb. 2, 2017), *https://www.greenwich.com/press-release/stock-trading-volumes-gravitate-open-and-closing-auctions* (stating that ''[o]n average across both NYSE and Nasdaq listed securities, closing auctions now represent 5.5% of average daily volume, up from just 3.6% in 2011. Over the same period, average open auction volume increased from 1.1% to 1.25%'').

[331] *See, e.g.,* Securities Exchange Act Release No. 75165 (June 12, 2015); 80 FR 34729, 34729–30 (June 17, 2015) (''[F]rom 2006 to 2013, the total number of ETPs [exchange-traded products] listed and traded as of year-end rose by an average of 160 per year, with a net increase of more than 200 in both 2007 and 2011. . . . The total market capitalization of ETPs has also grown substantially, nearly doubling since the end of 2009. Much of this growth has been in index-based ETPs. As of December 31, 2014, there were 1,664 U.S.-listed ETPs, and they had an aggregate market capitalization of just over $2 trillion. Trading in these ETPs makes up a significant portion of secondary-market equities trading. For example, during 2014, trading in U.S.-listed ETPs made up about 16.7% of U.S. equity trading by share volume and 25.7% of U.S. equity trading by dollar volume.'').

[332] *See* Greenwich Associates, Webinar: Trading the Auctions (Apr. 5, 2017), *available at https://business.nasdaq.com/media/Trading-the-Auctions-Webinar-April-2017-17_tcm5044-46070.pdf* (''As passive strategies and ETFs aim to track the performance of a benchmark index, they rely heavily on the closing auction, as it determines the closing price used in the benchmark index price calculation. Growth in passive investing and ETFs will thereby make the auction process ever more important.''); *see also, e.g.,* Nasdaq Rule 4754 (''The Nasdaq Closing Cross price will be the Nasdaq Official Closing Price for stocks that participate in the Nasdaq Closing Cross.'').

[333] The LULD Plan requires the primary listing exchanges to provide the exclusive SIPs with certain auction information for dissemination related to reopening auctions after LULD trading pauses: Auction reference price, auction collars, and number of extensions to the reopening auction. *See* LULD Plan, *supra* note 38, at VII.B.1. The reopening auction data in proprietary products contains this data plus additional data. For example, NYSE's Integrated feed includes, among other data elements, a paired quantity (number of shares paired at the reference price), total imbalance quantity (number of shares not matched at the reference price), and the side of any imbalance (buy or sell). *See* NYSE XDP Integrated Feed Client Specification (Jan. 29, 2018). Nasdaq's Total View feed includes similar information for auctions that occur after halts or pauses. *See* Nasdaq TotalView-ITCH 5.0 Specifications.

[334] For example, in 1998, the Commission approved a NYSE proposal to allow the exchange to disseminate via the CTA/CQ SIP market-on-close (''MOC'') and limit-on-close (''LOC'') imbalance information in the final minutes of each trading day. *See* Securities Exchange Act Release No. 40094 (June 15, 1998), 63 FR 33975 (June 22, 1998). The proposal provided for mandatory dissemination of all MOC and LOC imbalances of 50,000 shares or more at 3:40 p.m. Dissemination of imbalances of less than 50,000 shares could be made at the discretion of a floor official. The Commission stated its belief that the dissemination of such additional information through the plan processor would ''increase the amount of accurate market information available to the public'' and may ''increase public awareness of MOC/LOC order imbalances,'' potentially resulting in less market volatility. *See id.* at 33977–78; NYSE Rule 123C (providing that information regarding any disparity between MOC and marketable LOC interest to buy and MOC and marketable LOC interest to sell, measured at 3:50 p.m., of 50,000 shares or more shall be published on the consolidated tape; publication of imbalances in amounts less than 50,000 shares may also be published with the prior approval of a Floor Official or other qualified ICE employee). In addition, pre-opening indications, including the security and the price range within which the opening price is anticipated to occur, are published via the plan processors under certain conditions. *See* NYSE Rule 15.

[335] The auction-related information disseminated through exchange proprietary feeds includes: The ''reference'' or ''indicative match'' prices at which the largest potential auction would occur, imbalance side (buy or sell), number of shares of buy and sell orders at the indicative match price and reference price, paired quantity (number of shares matched at the indicative match price and reference price), execution quantity (number of shares executed at the indicative match price and reference price), imbalance quantity (number of shares not matched at the indicative match price and reference price), market order imbalance quantity (number of shares of market orders not matched at the indicative match price and reference price), far price (hypothetical auction-clearing price for cross orders only), near price (hypothetical auction-clearing price for cross orders and continuous orders), price variation indicator (absolute value of the percent of deviation of the near price to the nearest current reference price), continuous book clearing price, closing only clearing price, upper collar, lower collar, freeze status, and number of times halt period extended. *See, e.g.,* Nasdaq Rule 4754; Nasdaq TotalView-ITCH 5.0 Specifications; NYSE Rule 15; NYSE XDP Integrated Feed Client Specification.

[336] *See* NYSE Rule 15.

[337] *See* NYSE Rule 123C (describing the dissemination of information regarding imbalances that accumulate prior to the closing transaction, including information on disparities between MOC and marketable LOC interest to buy and MOC and marketable LOC interest to sell, a data field indicating the price at which closing-only interest (*e.g.,* MOC, LOC, and other auction-only orders) may be executed in full, and, beginning at 3:55 p.m., certain floor-broker quotes containing pegging instructions eligible to participate in the closing transaction).

[338] During the five minutes prior to the Nasdaq closing auction (also referred to as the closing cross) at 4:00 p.m., Nasdaq disseminates an ''Order Imbalance Indicator'' every second. The Nasdaq closing cross is an auction process in which Nasdaq's closing book and continuous book are brought together to create a single closing price. *See* Nasdaq Opening and Closing Crosses FAQs, *available at https://www.nasdaqtrader.com/content/ProductsServices/Trading/Crosses/openclose_faqs.pdf* (last accessed Jan. 7, 2020).) The Order Imbalance Indicator includes a reference price at which the maximum number of shares can be matched, the number of shares that can be matched at the reference price, the number of shares that cannot be matched at the reference price (*i.e.,* the imbalance), the buy/sell direction of any imbalance, and a variety of indicative prices such as the ''far price,'' a hypothetical auction-clearing price for cross orders, and ''near price,'' a hypothetical auction-clearing price for cross orders as well as continuous orders. *See* Nasdaq Rule 4754; Nasdaq TotalView-ITCH 5.0 Specifications.

NYSE Arca,[339] and Cboe BZX[340] provide auction information that is available only through each exchange's proprietary market data products.

As noted above, proprietary feeds also include additional information in connection with reopening auctions after trading halts that goes beyond the LULD information that primary listing exchanges are required to report to the exclusive SIP.[341]

(b) Comments and Roundtable Discussion

In connection with the Roundtable, several panelists and commenters supported the addition of auction information to SIP data.[342] For example, one commenter stated that the Commission should require the inclusion of auction order imbalance information in SIP data and expressed the view that doing so should not materially increase the operating costs of the exclusive SIP.[343]

Similarly, other panelists and commenters emphasized the importance of auction information, including for achieving best execution.[344] One panelist indicated that auctions are becoming more important and that institutional investors use auction imbalance data to trade.[345] Another panelist stated that auction imbalance information is important for retail investors, particularly high-net worth individuals, because the amount of the imbalance may be significant to a trading decision.[346]

However, one panelist (Nasdaq) opposed adding auction information to the exclusive SIP. The panelist indicated that Nasdaq views its crossing process as its intellectual property, retail investors do not use the imbalance information, and auction data is already widely available to retail investors and retail online brokers.[347]

(c) Commission Discussion and Proposal

Auctions have become an increasingly significant part of the trading day, accounting for approximately 7% of daily equity trading volume.[348] Auctions, especially the opening and the closing auctions, are important for the implementation of passive investment strategies, as detailed above, and generate prices that are used for a variety of market purposes, including setting benchmark prices for index rebalances and for mutual fund pricing. Reopening auctions also play a crucial role in connection with security-specific or market-wide events, helping to assure the resumption of orderly trading following a limit up-limit down or other regulatory halt.[349] Auction information, including auction order imbalance and other auction data, is important for effective participation in these significant market events.

However, the content of SIP data has not been updated to reflect the growing importance of auctions, and today most auction-related information is available only through exchange proprietary data products.[350] This exacerbates the information asymmetries between SIP data and proprietary data[351] and has raised concerns among market participants as to whether SIP data is sufficient to provide best execution to customer orders during auctions.[352] Moreover, lack of full reopening auction information in SIP data may inhibit widespread participation in reopening auctions following limit-up-limit-down halts or other volatility events and may impede efficient price discovery during these critical periods.[353]

As discussed above, market participants rely upon auction information for effective participation in opening, closing, and reopening auctions.[354] Accordingly, the Commission preliminarily believes that full auction-related information should be included in the proposed definition of core data. Specifically, under proposed Rule 600(b)(5) of Regulation NMS, ''auction information'' would be defined as all information specified by national securities exchange rules or

[339] NYSE Arca disseminates ''Auction Imbalance Information'' via proprietary data feeds, specifically the NYSE Arca Order Imbalance feed and NYSE Arca Integrated feed. *See* NYSE Arca Rule 7.35–E(a)(4)(C); NYSE Arca Trading Information: Auctions Overview, *available at https://www.nyse.com/markets/nyse-arca/trading-info* (last accessed Jan. 7, 2020). Auction Imbalance Information includes ''if applicable, the Total Imbalance, Market Imbalance, Indicative Match Price, Matched Volume, Auction Reference Price, Auction Collar, Book Clearing Price, Far Clearing Price, Imbalance Freeze Indicator, and Auction Indicator.'' NYSE Arca Rule 7.35–E(a)(4).

[340] Cboe BZX disseminates, via the Bats Auction Feed, Closing Match Process Information (the total size of all buy and sell orders matched at the close) for Non-BZX-Listed Securities and ''information regarding the current status of price and size information related to auctions conducted by the Exchange.'' *See* Cboe BZX Rules 11.22(i), 11.28(c).

[341] *See supra* note 333.

[342] *See* Roundtable Day One Transcript at 98 (Stacey Cunningham, NYSE); Roundtable Day One Transcript at 98 (Chris Concannon, CBOE); Roundtable Day One Transcript at 116 (Michael Blaugrund, NYSE); Roundtable Day Two Transcript at 124 (John Ramsay, IEX); Roundtable Day Two Transcript at 245–46 (Tyler Gellasch, Healthy Markets); NYSE Group Letter at 6, 13 (stating ''information about auction imbalances is now automated and yet is available only via proprietary data feeds'' and ''NYSE Group believes that Main Street could also benefit if auction imbalance information were included in the core data disseminated by the SIPs'' and recommending the expansion of the definition of core data to include auction imbalance information).

[343] *See* SIFMA Letter II at 2 (''At minimum, auction imbalance information shall include matched quantity, imbalance size, near price, far price, paired shares and imbalance shares.'').

[344] *See* Roundtable Day One Transcript at 228–29 (Joseph Wald, Clearpool Group) (stating that the lack of auction information (and depth of book data) on the exclusive SIPs needs to be addressed); Clearpool Letter (''We believe that certain information currently provided through proprietary data feeds, for example, imbalance data and order depth of book information, should be considered core data and provided to all market participants through the SIP.''); MFA and AIMA Letter at 6 (stating that that its members purchase proprietary market data (*e.g.,* depth of book and imbalance data) from exchanges for a variety of reasons, including strategy implementation, risk-analysis, best execution, less latency than other sources, and to fulfill fiduciary obligations).

[345] *See* Roundtable Day Two Transcript at 68 (Paul O'Donnell, Morgan Stanley).

[346] *See* Roundtable Day One Transcript at 159–60 (Adam Inzirillo, BAML).

[347] *See* Roundtable Day One Transcript at 157–59 (Oliver Albers, Nasdaq).

[348] This figure is based on data available on Cboe's website from November of 2019. *See* Cboe: U.S. Equities Market Volume Summary, *available at https://markets.cboe.com/us/equities/market_share/* (last accessed Nov. 26, 2019); Rosenblatt Securities, *supra* note 330 (stating that closing auction volume amounted to 8.4% of consolidated volume); Greenwich Associates, Stock Trading Volumes Gravitate to Open and Closing Auctions (Feb. 2, 2017), *available at https://www.greenwich.com/press-release/stock-trading-volumes-gravitate-open-and-closing-auctions* (stating that average opening auction volume in 2017 was 1.25% of average daily volume).

[349] For example, on Aug. 24, 2015, LULD halts were triggered in 471 securities. More than half (55%) of the impacted securities triggered more than one halt, and over one quarter (26%) of the impacted securities were halted 4 or more times. *See* Staff of the Office of Analytics and Research, Division of Trading and Markets, Equity Market Volatility on Aug. 24, 2015, at 68 (Dec. 2015).

[350] *See supra* notes 333–341.

[351] *See infra* note 358 and accompanying text (explaining that auction data that would support more informed participation in auctions is not available publicly or to retail investors).

[352] *See supra* note 344.

[353] *See supra* note 333 (comparing the LULD information available through the exclusive SIP feeds with the more extensive reopening auction information available through proprietary market data products).

[354] Market participants use auction information in making a variety of trading decisions. *See* Markets Media, Auction Imbalance Data Affects Traders (Feb. 7, 2017), *available at https://www.marketsmedia.com/auction-imbalance-data-affects-traders* (stating that ''70% of traders said real-time imbalance data can influence how their firm trades in the auction or continuous market'' and explaining that large orders can be executed in auctions with less price impact). For example, market participants use auction imbalance information to predict closing volume, which is ''an important factor in the optimal scheduling of algorithmic trading.'' *See* Global Trading, Closing Volume Discovery (Sept. 23, 2019), *available at https://www.fixglobal.com/home/closing-volume-discovery/.* Since actual daily closing volume can vary widely, it is difficult for market participants to manage order placement logic for orders that are being submitted to auctions. *Id.* Auction imbalance messages published by the primary listing exchanges through proprietary market data products help market participants more accurately predict closing volume. *Id.*

effective national market system plans that is generated by a national securities exchange leading up to and during an auction, including opening, reopening, and closing auctions, and disseminated during the time periods and at the time intervals provided in such rules and plans.

The elements of proposed auction information would be established by individual exchange rules or effective national market system plans (*e.g.,* the LULD Plan). The individual exchanges have established their own auction information elements that are relevant to their individual auction processes, and effective national market system plans have also established information requirements related to certain auctions (*e.g.,* reopenings after LULD trading pauses).[355] The Commission preliminarily believes that each individual exchange and relevant plan should be able to design and develop its individual auctions and the data elements that would be useful to market participants that participate in such auctions. Further, by tying the proposed definition to the rules of the exchanges and effective national market system plans, the proposed definition could evolve over time as such exchanges or plans develop new data elements in the future. Any additional data element set forth in an exchange's rules or plan(s) would be subject to Commission consideration pursuant to Section 19(b) of the Exchange Act and Rule 19b–4 or Rule 608, respectively.

The Commission preliminarily believes that the proposed definition of auction information would promote more informed and effective trading in auctions. For example, information regarding the size and side of order imbalances can indicate the direction a stock's price might move and inform decisions on where to price an auction order and what order type to use. Including auction information in core data, as proposed, would facilitate a broader distribution of this information to a greater number and variety of market participants. The Commission preliminarily believes that this would help to promote more informed trading for a greater number of market participants, which could also facilitate price formation, and improve execution quality for more traders and investors. While some market participants may not need the proposed auction information, based on the growth of auctions and the importance a variety of market participants have ascribed to information about orders participating in auctions, the Commission preliminarily believes that many market participants, including some retail investors, would use this information to participate in auctions in a more informed and effective manner.[356]

Some Roundtable panelists objected to the inclusion of auction information in core data. For example, as previously noted, Nasdaq asserted that its crossing process is its intellectual property and that auction data is already widely available to retail investors on Nasdaq's website and through other data vendors.[357] Although some auction-related information may be available on Nasdaq's website, the Commission preliminarily believes that meaningful auction information, such as the real-time imbalance data that would support decisions regarding order type selection and order pricing during auctions, is available only through Nasdaq's proprietary market data products.[358] In addition, the Commission's proposal would not require the disclosure of any specific details about the operation of Nasdaq's crossing process that would appropriate or compromise Nasdaq's intellectual property. The proposed definition of auction information would require the dissemination of information about orders participating in auctions;[359] the proposed definition would not require the dissemination of information about the technology or processes used to hold an auction. Further, the proposed definition of auction information is based on information currently disseminated by Nasdaq.

The Commission requests comment on the inclusion of auction information in the proposed definition of core data as well as the proposed definition of auction information in proposed Rule 600(b)(5). In particular, the Commission solicits comment on the following:

44. Do commenters believe that auction information should be included in the proposed definition of core data? Why or why not? What kinds of market participants will use this information? For what purposes? What are the advantages or disadvantages of including auction information in proposed core data as opposed to proprietary data?

45. Do commenters believe that the lack of auction information in current SIP data creates significant information asymmetries between users of current SIP data and users of proprietary data products? Do commenters believe that current SIP data is sufficient to meet the needs of some market participants even though it does not include auction information? Please explain.

46. Does the lack of auction information in current SIP data create impediments to achieving best execution when participating in auctions? Do market participants believe that it is possible to participate in auctions without the auction information? Please explain.

47. What are commenters' views on the Commission's proposed definition of auction information? Does it capture the full range of auction-related information that market participants need for informed trading in auctions? Does it include any information that is not necessary or useful for informed trading in auctions? Should the Commission delineate specific data elements in the definition of auction information as opposed to defining auction information in terms of the auction information that is currently generated pursuant to exchange rules or effective national market system plans?

48. Should the proposed definition of auction information include information on orders participating in non-auction matching processes, such as Cboe's market close order, that are related to auctions occurring on other exchanges? Why or why not?

D. Proposed Definition of ''Regulatory Data''

As discussed above,[360] the existing Equity Data Plans disseminate data elements related to a number of regulatory requirements, such as Regulation SHO, LULD, and MWCB requirements, and other information provided by the primary listing exchanges, such as official opening and

[355] *See, e.g.,* LULD Plan, *supra* note 38, Section VII(B)(1).

[356] *See supra* notes 342–346 and accompanying text. Moreover, as noted above, *see supra* note 323, competing consolidators will be required to calculate and generate consolidated market data, including the auction information set forth in the Commission's proposed definition, and to offer this information to subscribers. *See* proposed Rule 614(d)(1)–(3). However, market participants may require more or less auction information than specified in the proposed definition, and can choose auction information products offered by competing consolidators that are more tailored to their specific needs.

[357] *See supra* note 347 and accompanying text.

[358] *See* Nasdaq Opening and Closing Crosses, *http://www.nasdaqtrader.com/Trader.aspx?id=OpenClose* (last accessed Jan. 7, 2020) (providing share volume in the Nasdaq crossing network but noting that imbalance data is available by subscription only); *supra* note 338.

[359] *See* Section 11A(c)(1)(C) of the Exchange Act, stating that the Commission shall assure the usefulness of the form and content of information with respect to quotations for and transactions in securities. 15 U.S.C. 78k–1(c)(1)(C). The Senate Report stated that the Commission would have the authority under Section 11A to promulgate rules as to what information and how such information is displayed on any tape or within any quotation system. *See* Senate Report, *supra* note 5, at 10.

[360] *See supra* Section II.C.

closing prices. To ensure that this information is included in the proposed definition of consolidated market data, the Commission is proposing to amend Rule 600 to add a definition of ''regulatory data.'' Specifically, under proposed Rule 600(b)(77) of Regulation NMS, regulatory data would be defined as: (1) Information required to be collected or calculated by the primary listing exchange for an NMS stock and provided to competing consolidators and self-aggregators pursuant to the effective national market system plan or plans required under Rule 603(b), including, at a minimum: (A) Information regarding Short Sale Circuit Breakers pursuant to Rule 201 of Regulation SHO; (B) information regarding Price Bands required pursuant to the LULD Plan; (C) information relating to regulatory halts or trading pauses (news dissemination/pending, LULD, and MWCBs) and reopenings or resumptions; (D) the official opening and closing prices of the primary listing exchange; and (E) an indicator of the applicable round lot size; and (2) information required to be collected or calculated by the national securities exchange or national securities association on which an NMS stock is traded and provided to competing consolidators and self-aggregators pursuant to the effective national market system plan(s) required under Rule 603(b), including, at a minimum: (A) Whenever such national securities exchange or national securities association receives a bid (offer) below (above) an NMS stock's lower (upper) LULD price band, an appropriate regulatory data flag identifying the bid (offer) as non-executable; and (B) other regulatory messages including sub-penny execution and trade-though exempt indicators. For purposes of paragraph (1)(C), the primary listing exchange that has the largest proportion of companies included in the S&P 500 Index shall monitor the S&P 500 Index throughout the trading day, determine whether a Level 1, Level 2, or Level 3 decline, as defined in self-regulatory organization rules related to Market-Wide Circuit Breakers, has occurred, and immediately inform the other primary listing exchanges of all such declines (so that the primary listing exchange can initiate trading halts, if necessary).[361]

The primary listing exchange is an SCI entity under Regulation Systems Compliance and Integrity (''Regulation SCI'').[362] An SCI entity includes any national securities exchange other than an exchange that is notice registered with the Commission pursuant to 15 U.S.C. 78f(g) or a limited purpose national securities association registered with the Commission pursuant to 15 U.S.C. 78*o*–3(k).[363] Under Regulation SCI, any SCI system of, or operated by or on behalf of, the primary listing exchange that directly supports functionality relating to trading halts, would be a ''critical SCI system.'' An ''SCI system'' means all computer, network, electronic, technical, automated, or similar systems of, or operated by or on behalf of, an SCI entity that, with respect to securities, directly support trading, clearance and settlement, order routing, market data, market regulation, or market surveillance.[364] A ''critical SCI system'' means any SCI systems of, or operated by or on behalf of, an SCI entity that: (1) Directly support the functionality relating to (i) Clearance and settlement systems of clearing agencies; (ii) Openings, reopenings, and closings on the primary listing market; (iii) Trading Halts; (iv) Initial public offerings; (v) The provision of consolidated market data; or (vi) Exclusively-listed securities; or (2) Provides functionality to the securities markets for which the availability of alternatives is significantly limited or nonexistent and without which there would be a material impact on fair and orderly markets.[365] Accordingly, with respect to any SCI systems used to determine whether LULD or MWCB trading halts have been triggered, and to notify other SROs of such halts, Regulation SCI requires the primary listing exchange to have reasonably designed business continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve two-hour resumption of such systems following a wide-scale disruption.[366]

Market participants use this regulatory data to meet their regulatory obligations and to be informed of trading halts, price bands, or other market conditions that may affect their trading activity. Accordingly, the Commission preliminarily believes that this information should be included in the proposed definition of consolidated market data.

1. Regulation SHO

In pertinent part, Rule 201(b) requires a trading center, including a listing market, to establish, maintain, and enforce certain written policies and procedures that are reasonably designed to prevent the execution or display of a short sale order of a covered security if the Short Sale Circuit Breaker has been triggered and further requires that such trading center, including a listing market, regularly surveil to ascertain the effectiveness of those policies and procedures and take prompt action to remedy any deficiencies.

Under the proposed definition of regulatory data, the primary listing exchange for an NMS stock (*i.e.,* a covered security under Rule 201 of Regulation SHO) [367] would make the determination [368] regarding whether a Short Sale Circuit Breaker has been triggered.[369] The Commission proposes to amend the process required under Rule 201 in two ways. First, if the Short Sale Circuit Breaker has been triggered, the listing market would be required to immediately notify competing consolidators and self-aggregators (rather than a single plan processor as is currently the case). Competing consolidators would then be required to consolidate and disseminate this information to their subscribers. Second, under the proposed decentralized consolidation model with competing consolidators and self-aggregators, the listing market would have the option of obtaining proposed consolidated market data from one or

[361] Because, under the proposed decentralized consolidation model, primary listing exchanges would perform some of the functions that the exclusive SIPs perform today (such as monitoring the S&P 500 Index), each SRO would have to collect all elements of consolidated market data. SROs would not be required to obtain regulatory data or other consolidated market data from competing consolidators; SROs could choose to obtain such data directly from other SROs.

[362] 17 CFR 242.1000 *et seq.*

[363] *See* Rule 1000 of Regulation SCI, 17 CFR 242.1000.

[364] *See* Rule 1000 of Regulation SCI, 17 CFR 242.1000.

[365] *Id.*

[366] *See* Rule 1001(a)(2)(v), 17 CFR 242.1001(a)(2)(v). As the Commission stated when it adopted Regulation SCI, ''[i]n the event a trading halt is necessary, it is essential that the systems responsible for communicating the trading halt—typically maintained by the primary listing market—are robust and reliable so that the trading halt is effective across the U.S. securities markets. Thus, systems which communicate information regarding trading halts provide an essential service in the U.S. markets and, should a systems issue occur affecting the ability of an SCI entity to provide such notifications, the fair and orderly functioning of the securities markets may be significantly impacted.'' *See* Regulation SCI Adopting Release, *supra* note 28, at 72278.

[367] A ''covered security'' is defined in Rule 201(a)(1) of Regulation SHO as any NMS stock as defined in Rule 600(b)(48). 17 CFR 242.201(a)(1).

[368] 17 CFR 242.201(b)(3).

[369] *Id.* This is consistent with the current requirements under Rule 201(b)(3). Rule 201(b)(3) refers to the ''listing market'' as defined in Rule 201(a)(3). As discussed below, the Commission proposes to amend the definition of ''listing market'' to refer to the proposed definition of ''primary listing exchange'' in proposed Rule 600(b)(67).

more competing consolidators (rather than from a single plan processor as is currently the case) or, if aggregating consolidated market data itself, to make determinations as to whether a Short Sale Circuit Breaker has been triggered.

Due to the changes proposed herein (*i.e.,* a listing market would now have the ability to choose from one or more competing consolidators for proposed consolidated market data, or to aggregate proposed consolidated market data on its own), the Commission preliminarily believes that a trading center, including a listing market, should consider updating its written policies and procedures required under Rule 201(b) to address the source of core data that it uses in making its determination regarding whether the Short Sale Circuit Breaker has been triggered and any changes to that source of core data, including the underlying reason for such change. The Commission preliminarily believes that these types of updates to such written policies and procedures would assist a listing market in ensuring consistency in making its determination regarding whether the Short Sale Circuit Breaker has been triggered and avoiding any appearance of ''gaming'' or ''cherry-picking'' of core data in making that determination.

Moreover, the Commission is proposing certain conforming amendments in Rule 201 to harmonize that rule with the Commission's proposal. Currently, Rule 201(a) defines ''listing market'' by reference to the listing market as defined in the effective transaction reporting plan for the covered security.[370] Since primary listing exchanges will be required to collect and calculate regulatory data, the Commission is proposing to introduce a definition of ''primary listing exchange'' in Rule 600(b)(67) to provide greater clarity with respect to the responsibilities regarding regulatory data. Specifically, under proposed Rule 600(b)(67), primary listing exchange would be defined as, for each NMS stock, the national securities exchange identified as the primary listing exchange in the effective national market system plan or plans required under Rule 603(b).

The Commission preliminarily believes that it is appropriate for the effective national market system plan(s) to determine which exchange is the primary listing exchange for each NMS stock and that the proposed definition would ensure that primary listing exchanges are clearly identified. The Commission also preliminarily believes that the definition of listing market in Rule 201(a)(3) should be amended so that it cross-references this proposed definition of primary listing exchange, so as to facilitate the consistent identification of primary listing exchanges across Regulation SHO and Regulation NMS and to avoid potentially duplicative or confusing definitions in the Commission's rules.

Similarly, Rule 201(b)(1)(ii) requires Short Sale Circuit Breakers to be applied ''the remainder of the day and the following day when a national best bid for the covered security is calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system plan.'' [371] The Commission is proposing to update this provision by removing the reference to the plan processor to reflect the proposed decentralized consolidation model. In addition, Rule 201(b)(3) requires listing markets to immediately notify ''the single plan processor responsible for consolidation of information for the covered security pursuant to Rule 603(b)'' [372] when a Short Sale Circuit Breaker has been triggered. Again, as a result of the proposed decentralized consolidation model, this reference to a single plan processor is proposed to be removed and replaced by a requirement for the listing market to immediately make such information available as provided in Rule 603(b) (*i.e.,* to competing consolidators and self-aggregators).

2. Limit Up-Limit Down Plan

Currently, the exclusive SIPs calculate and disseminate certain LULD data pursuant to the terms of the LULD Plan.[373] Specifically, the exclusive SIPs calculate the price bands and reference prices and disseminate limit state flags identifying quotes that are non-executable, trading pause messages, and reopening information. To ensure that this important LULD information continues to be calculated and disseminated as part of proposed consolidated market data, the Commission is proposing several new provisions. First, the Commission is proposing that the primary listing exchanges be required to calculate and disseminate the price bands and reference prices for the LULD Plan as part of proposed regulatory data. As discussed below, the existing exclusive SIPs would be replaced by the proposed decentralized consolidation model with competing consolidators and self-aggregators, and, therefore, the obligation to calculate and disseminate LULD data would need to be shifted to another entity. Primary listing exchanges have a direct relationship with their listed companies and are responsible for imposing market-wide ''news pending'' and other regulatory halts. Further, under the LULD Plan, the primary listing exchanges currently have substantial obligations with regard to imposing and communicating LULD trading pauses, as well as with respect to the reopening of trading.[374] The Commission therefore believes that the primary listing exchanges would be well-situated to perform these calculations as part of proposed regulatory data.

The LULD Plan is an important mechanism in the national market system. The Commission preliminarily believes that having multiple entities (*e.g.,* competing consolidators and self-aggregators) calculating reference prices and price bands could complicate and potentially undermine the purposes of the LULD Plan and create confusion during periods of market volatility. Accordingly, the Commission believes that the LULD reference prices and price bands should continue to be calculated and disseminated by a single entity—the primary listing exchange. The Commission's proposal to continue to have a single entity calculate and disseminate LULD information as part of proposed consolidated market data and, as discussed below, to monitor the S&P 500 Index throughout the trading day and send notification messages to the primary listing exchanges regarding MWCBs, is not inconsistent with the proposed decentralized consolidation model under which multiple competing consolidators would calculate and disseminate consolidated market data, including the NBBO. With broker-dealers aggregating various proprietary market data products today, the potential for ''multiple NBBOs'' already exists, whereas LULD information is currently calculated and disseminated by a single entity (*i.e.,* the exclusive SIPs) and notifications to primary listing exchanges regarding MWCBs triggered by S&P 500 Index declines are also sent by a single entity (*i.e.,* SIAC).

In addition, under the proposed definition of regulatory data, all national securities exchanges or national securities associations that receive a quote for an NMS stock that is outside of the price bands under the LULD Plan would be required to attach the appropriate regulatory flag signifying that the quote is non-executable and to

[370] 17 CFR 242.201(a)(3).

[371] 17 CFR 242.201(b)(1)(ii).

[372] 17 CFR 242.201(b)(3).

[373] *See supra* Section II.C.2.

[374] *See supra* Section II.C.2.

provide the quote and appropriate flag as part of its regulatory data to competing consolidators and self-aggregators. The Commission preliminarily believes that each national securities exchange or national securities association is in the best position to perform the function of attaching a flag to its own quote. The Commission preliminarily believes that assigning the responsibility to identify quotes as non-executable to parties other than the SRO disseminating the quote could add latency and complexity to the process and increase the risk of error.

3. Market-Wide Circuit Breakers

Today, SIAC (the CTA/CQ SIP) monitors the S&P 500 Index to determine whether a Level 1, Level 2, or Level 3 decline has occurred and is responsible for sending messages to the primary listing exchanges informing them of such declines.[375] Under the proposed decentralized consolidation model, there would no longer be an exclusive SIP to perform this function. Accordingly, the proposed definition of regulatory data identifies a specific primary listing exchange to monitor the S&P 500 Index throughout the trading day, determine whether a Level 1, Level 2, or Level 3 decline, as defined in SRO rules related to MWCB, has occurred, and immediately inform the other primary listing exchanges of all such declines. Specifically, the primary listing exchange that has the largest proportion of companies included in the S&P 500 Index would be required to conduct this monitoring and notification function.[376] As discussed above, the Commission preliminarily believes that these responsibilities should continue to be carried out by a single entity so that messages regarding the occurrence of Level 1, Level 2, or Level 3 declines are distributed to primary listing exchanges simultaneously from the same source, to avoid the complexity and confusion that might result if such messages were distributed from multiple parties during periods of market volatility. The Commission preliminarily believes that it is appropriate to allocate these functions to the primary listing exchange that has the largest proportion of companies included in the S&P 500 Index because a significant proportion of the monitoring would be related to its own listings.

In addition, under the proposed definition of regulatory data, each primary listing exchange would be responsible for providing certain information required under the MWCB rules to competing consolidators and self-aggregators. Specifically, each primary listing exchange would be required to provide MWCB trading halt and resumption messages to competing consolidators and self-aggregators, just as they do with the exclusive SIPs today.

4. Other Regulatory Data

Official opening and closing prices are closely tracked data elements used by market participants for a variety of purposes. The primary listing exchanges currently determine the official opening and closing prices for their listed stocks[377] and provide these data elements to the exclusive SIPs. In addition to Regulation SHO, LULD, and MWCB information, the proposed definition of regulatory data will also require primary listing exchanges to provide the official opening and closing prices for the NMS stocks they list to competing consolidators and self-aggregators. The Commission preliminarily believes that the primary listing exchanges, because they determine the official opening and closing prices for their listed stocks and have direct and immediate access to this information, are best situated to provide official opening and closing prices in their listed securities to competing consolidators and self-aggregators under the decentralized consolidation model so that this important information is included in the proposed consolidated market data made available to market participants.

In addition, the proposed definition of regulatory data would require the primary listing exchange for each NMS stock to calculate and make available to competing consolidators and self-aggregators an indicator of the applicable round lot size. As discussed above, the proposed definition of round lot would allocate stocks into five round lot categories based on each stock's average closing price on the primary listing exchange over the prior calendar month. The Commission preliminarily believes that such an indicator would help market participants ascertain the applicable round lot size for each NMS stock on an ongoing basis.[378] Due to the primary listing exchanges' direct and immediate access to the official opening and closing prices of their listed stocks, the primary listing exchanges would be well-situated to calculate the monthly average closing price, the metric that will be used to allocate NMS stocks into round lot sizes under the proposed definition of round lot; assign a round lot size of 100, 20, 10, 2, or 1, as applicable; and include an indicator of the applicable round lot size in the data they make available to competing consolidators and self-aggregators.

The proposed definition of regulatory data would also require an exchange or association on which an NMS stock is traded to provide other data pertaining to regulatory requirements, including sub-penny execution indicators and trade-though exempt indicators. Additional regulatory messages such as these are included in the technical specifications of the Equity Data Plans. The Commission preliminarily believes that all of these regulatory messages provide important information to the market and facilitate compliance with regulatory requirements. Therefore, the Commission preliminarily believes that such regulatory messages should be included in the proposed definition of consolidated market data.

Finally, as discussed above,[379] as the markets continue to evolve, there may be a need to reflect new regulatory data elements in proposed consolidated market data. Accordingly, the Commission is proposing that the definition of regulatory data include a provision (as set forth in proposed consolidated market data) that would allow the definition of regulatory data to be amended to include additional regulatory data elements pursuant to amendments to effective national market system plan(s). As discussed above, amendments to effective national market system plans must be filed with, and approved by, the Commission pursuant to Rule 608(b).

The Commission requests comment on the proposed definition of regulatory data in proposed Rule 600(b)(77). In particular, the Commission solicits comment on the following:

[375] By contrast, rather than the exclusive SIP notifying the primary listing exchange, under LULD, if trading for an NMS stock does not exit a limit state within 15 seconds of entry during regular trading hours, then the primary listing exchange is required to declare a trading pause in that NMS stock and notify the exclusive SIP.

[376] NYSE currently lists the largest proportion of companies in the S&P 500 Index. If this changes, NYSE and the other primary listing exchange would need to coordinate to ensure that these monitoring and notification responsibilities are transitioned effectively.

[377] *See, e.g.,* NYSE Rule 123C(1)(e)(i) (Closing Procedures); NYSE Rule 123D(a) (Openings); Nasdaq Rule 4754(b)(4) (Nasdaq Closing Cross); Nasdaq Rule 4752(d) (Opening Process).

[378] Among other reasons, market participants would need to be aware of the applicable round lot size under the proposed amendments because several Commission rules would apply to round lot orders. *See supra* Section III.C.1(d)(i) (discussing the impact of the proposed definition of round lot on Rules 602, 603, 604, and 605 of Regulation NMS).

[379] *See supra* Section III.B.

49. Do commenters believe that the elements of proposed regulatory data enumerated in proposed Rule 600(b)(77) reflect the elements that are necessary for trading in compliance with Commission rules, Equity Data Plans, or SRO rules? Why or why not? Should any additional data elements be included? Is there any significant regulatory information that is currently included in SIP data, including pursuant to the technical specifications to the Equity Data Plans, which is not captured by the proposed definition of regulatory data? If so, should such elements be included in the proposed definition of regulatory data? Please describe.

50. Should any of the proposed elements of regulatory data be excluded? Please explain.

51. Do commenters believe that the primary listing exchange should be responsible for calculating regulatory data, as defined? Why or why not? Would any of those responsibilities be more effectively allocated to competing consolidators? Do commenters believe another party should perform these calculations? Would the proposed definition of regulatory data impose any additional costs on primary listing exchanges?

52. In the context of the Short Sale Circuit Breaker, what benefits and/or challenges do commenters believe will result from the proposed change to a competing consolidator/self-aggregator model? Do primary listing exchanges anticipate utilizing a consistent source of core data in making their determination regarding whether a Short Sale Circuit Breaker has been triggered? Or multiple sources? Please describe.

53. Will updating the primary listing exchange's existing Rule 201 written policies and procedures, as discussed above, present any operational (or other) challenges? If yes, please describe.

54. Would a round lot size indicator be useful to market participants and investors? Why or why not?

55. Do commenters believe that the primary listing exchange that has the largest proportion of companies included in the S&P 500 Index should be required to perform the MWCB-related functions described in the proposed definition of regulatory data? Why or why not? Should the primary listing market be determined by weighting the companies included in the S&P 500 Index? Why or why not? Do commenters believe that at least one other market should calculate this information as a backup contingency? Are there alternative approaches to the assignment of the S&P 500 Index monitoring and notification function? Would it be more appropriate to assign this function to another party? If so, please explain how any such other party could appropriately perform this function.

56. Do commenters believe that each national securities exchange and national securities association receiving a quote outside the price bands under the LULD Plan should be required to flag each quote as non-executable? Why or why not? Are there alternative approaches to the assignment of the non-executable quote flagging function? Would it be more appropriate to assign this function to another party? If so, please explain how any such other party could appropriately perform this function.

E. Proposed Definition of ''Administrative Data''

In addition to current core data and current regulatory data, SIP data today includes additional technical information. Much of this information is enumerated in the technical specifications of the Equity Data Plans and described as ''administrative'' or ''control'' messages. Examples of administrative messages include market center and issue symbol identifiers.[380] Examples of control messages include messages regarding the beginning and end of trading sessions.[381] The Commission preliminarily believes that administrative messages can facilitate the efficient and accurate use of consolidated market data by market participants and should be included in the proposed definition of consolidated market data. Further, the Commission preliminarily believes that this information is useful to market participants and should continue to be widely available. The proposed definition is intended to capture administrative information that is currently provided in SIP data.[382] In order to capture this type of information, under proposed Rule 600(b)(2), ''administrative data'' would be defined as administrative, control, and other technical messages made available by national securities exchanges and national securities associations pursuant to the effective national market system plan or plans required under Section 242.603(b) or the technical specifications thereto as of [date of Commission approval of this proposal].

The Commission preliminarily believes that administrative data, as proposed to be defined and as currently exists, provides additional context for market participants to understand, and efficiently and accurately use, the proposed core and regulatory data to support their trading activities. For example, issue symbol and market center identifiers provide basic information necessary to understand to which stock the price and size information represented in core data relates and the specific exchange on which this interest is available, which informs decisions about where orders in such stocks should be directed. As such, this information should continue to be included in the proposed definition of consolidated market data. Moreover, the Commission preliminarily believes that SROs would be well-situated to provide administrative data messages, which relate to SRO-specific details such as the market-center identifiers or the beginning and ending of trading sessions, because SROs have direct and immediate access to this information and could efficiently integrate it into the data feeds that they will utilize to make available the data necessary for competing consolidators and self-aggregators to generate core and regulatory data.

The Commission requests comment on the proposed amendment to Rule 600(b)(2) to introduce a definition of administrative data. In particular, the Commission solicits comment on the following:

57. Do commenters believe that the Commission should propose a definition of administrative data? Why or why not? Should the Commission take an alternative approach? Why or why not?

58. Do commenters believe that the proposed definition of administrative data captures the market data that would be necessary or useful to market participants? Please explain. Does the proposed definition of administrative data include any market data that should not be included? Please explain.

59. Do commenters believe that each national securities exchange and national securities association should make available administrative data? Should any of the elements be provided by the primary listing exchange? Are there specific administrative data elements that should be consistent across all SROs? Are there any administrative data elements that competing consolidators or some other party, as opposed to national securities exchanges and national securities

[380] *See, e.g.,* UTP Data Feed Services Specification, *supra* note 142, at 20.

[381] *Id.* at 33.

[382] As discussed above, administrative data elements could be added to consolidated market data pursuant to amendments to the effective national market system plan or plans required under Section 242.603(b). *See supra* Section III.B.

associations, should be required to generate or provide for inclusion in proposed consolidated market data? Please explain.

60. Do commenters believe that there are administrative data elements that should not require an NMS Plan amendment for inclusion in consolidated market data? For example, are there administrative data elements that are provided solely in the course of providing or utilizing other consolidated market data elements, such as core or regulatory data? Please explain. What procedural mechanism would be appropriate for including any such data elements in consolidated market data? How could any such data elements be distinguished from those which would require an NMS Plan amendment to be added to consolidated market data?

F. Proposed Definition of ''Exchange-Specific Program Data''

In addition to current core data, regulatory data, and administrative data, current SIP data includes information related to individual exchange retail liquidity programs, which offer opportunities for retail orders to receive price improvement.[383] The Commission preliminarily believes that existing retail liquidity programs and, in certain cases, other exchange-specific program information should continue to be included in proposed consolidated market data and is therefore proposing to define ''exchange-specific program data'' to include this information. Under proposed Rule 600(b)(32), exchange-specific program data, which would be included in the proposed definition of consolidated market data, would be defined as (i) information related to retail liquidity programs specified by the rules of national securities exchanges and disseminated pursuant to the effective national market system plan or plans required under Section 242.603(b) as of [date of Commission approval of this proposal] and (ii) other exchange-specific information with respect to quotations for or transactions in NMS stocks as specified by the effective national market system plan or plans required under Section 242.603(b).

Proposed Rule 600(b)(32)(i) pertains to information related to existing exchange retail liquidity programs that is currently disseminated pursuant to the Equity Data Plans. The dissemination of retail liquidity identifiers in the current SIP data encourages market participants to submit orders to, or otherwise participate in, such programs that the Commission has approved as consistent with the Exchange Act, including the dissemination of the related retail liquidity program information as SIP data.[384] The proposed definition of exchange-specific program information would help ensure that the retail liquidity program information that is currently included in SIP data would be included in consolidated market data.

In addition, to the extent that an exchange, at its own discretion, determines to develop a new exchange-specific program in the future, proposed Rule 600(b)(32)(ii) would permit data elements related to any such program to be included in consolidated market data pursuant to the national market system plan or plans required under Section 242.603(b) or amendments thereto that are approved by the Commission. The Commission preliminarily believes that, to the extent that (i) exchanges develop new programs in the future,[385] and (ii) the broad dissemination of information about such programs as part of consolidated market data would facilitate participation in such programs, an amendment to the effective national market system plan(s) could be filed with the Commission under Rule 608 of Regulation NMS to include such information in consolidated market data. Accordingly, the Commission preliminarily believes that this information is useful and should be included in the definition of consolidated market data as proposed.

The Commission requests comment on the proposed amendment to Rule 600(b)(32) to introduce a definition of exchange-specific program data. In particular, the Commission solicits comment on the following:

61. Do commenters believe that the proposed exchange-specific program data should be included in proposed consolidated market data? Why or why not?

62. Do commenters believe that information related to retail liquidity programs currently established pursuant to exchange rules should be included in the proposed definition of exchange-specific program data? Why or why not? Do commenters believe that the inclusion of data elements related to these programs in current SIP data is useful for trading or investment decisions? Please explain.

63. Do commenters believe that the proposed definition of exchange-specific program data should permit data elements related to new exchange-specific programs that may be established to be included in consolidated market data pursuant to amendments to the effective national market system plan or plans required under Section 242.603(b)? Why or why not?

IV. Need for and Proposed Enhancements to Provision of Consolidated Market Data

The Commission is proposing to replace the existing centralized, exclusive consolidation model for SIP data[386] with a decentralized, competitive consolidation model. The Commission preliminarily believes this model would foster competition in the consolidation and dissemination of proposed consolidated market data, better serve the needs of market participants and investors, and help mitigate the influence of certain conflicts of interest inherent in the existing exclusive SIP model.[387] The Commission also preliminarily believes

[383] *See, e.g.,* CQS Binary Input Specifications (July 17, 2019), at 37 (describing a ''retail interest indicator'' as follows: ''[w]hen Retail Price Improvement (RPI) interest is priced better than the Protected Best Bid or Offer (PBBO) by a minimum of $0.001, an indication of interest on the Bid, Offer, or both the Bid and Offer will identify that interest will be eligible to interact with incoming Retail Order interest.''); *supra* note 47; NYSE Rule 107C; Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (NYSE Retail Liquidity Program Approval Order); CBOE BYX Rule 11.24; Securities Exchange Act Release No. 68303 (Nov. 27, 2012), 77 FR 71652 (Dec. 3, 2012) (CBOE BYX Retail Pilot Program Approval Order); Nasdaq BX Rule 4780; Securities Exchange Act Release No. 73702 (Nov. 28, 2014), 79 FR 72049 (Dec. 4, 2014) (NASDAQ BX Retail Pilot Program Approval Order). For example, NYSE's retail liquidity program defines a class of market participants known as Retail Liquidity Providers who may provide potential price improvement, in the form of a non-displayed order that is priced better than NYSE's best protected bid or offer called a Retail Price Improvement Order. *See* NYSE Rule 107C; NYSE Retail Liquidity Program Approval Order. Other NYSE members are allowed, but not required, to submit Retail Price Improvement Orders. *Id.* When there is a Retail Price Improvement Order in a particular security, NYSE disseminates an indicator, which is included in the SIP data, known as the Retail Liquidity Identifier, indicating that such interest exists. In response, a class of market participants known as Retail Member Organizations can submit a special type of order, called a Retail Order, to the exchange. A Retail Order would interact, to the extent possible, with available contra-side Retail Price Improvement Orders. *Id.*

[384] *See* NYSE Retail Liquidity Program Approval Order, *supra* note 383 (stating that ''the Retail Liquidity Identifier will be disseminated through the consolidated public market data stream, and thus be widely viewable by market participants, and that members of the Exchanges that would not otherwise participate as Retail Liquidity Providers would be able to participate in the Program by submitting Retail Price Improvement Orders'').

[385] *See supra* note 92 and accompanying text. Currently, the only exchange-specific program data disseminated pursuant to the Equity Data Plans relates to retail liquidity programs.

[386] *See supra* Sections I and II.A.

[387] These conflicts of interest are discussed in Section VI.A.2 *infra.*

that the proposed approach would modernize the infrastructure of the national market system by eliminating the existing, outdated centralized architecture for data consolidation and fostering the use of more competitive technologies for the collection, consolidation, and dissemination of proposed consolidated market data. Together, these would reduce latency differentials that currently exist between SIP data and proprietary data. Furthermore, the Commission preliminarily believes that this model will address concerns about the significant costs that accompany the exclusive [388] structure that currently exists for the aggregation and dissemination of SIP data.

A. Existing Centralized Consolidation Model

Today, SIP data is collected, consolidated, and disseminated to investors and market participants through a centralized consolidation model with an exclusive SIP for each NMS stock centrally collecting market data transmitted from the dispersed SRO data centers and then redistributing consolidated SIP data to end-users. Each exchange and FINRA is required to transmit its own data for each NMS stock to the appropriate exclusive SIP.[389] As provided under Rule 603(b), the exclusive SIPs do not compete with each other in the collection, consolidation, or dissemination of SIP data.[390]

For many years, this centralized consolidation model served investors well by providing an accurate, reliable, and fair stream of SIP data that was considered prompt relative to the prevailing technological standards of the time. Technological advances as well as the order routing and trading strategies that developed in response to the adoption of Regulation NMS have greatly increased the speed and automation of both markets and common trading strategies. These changes, along with the provisions adopted in Regulation NMS that allow for the sale of proprietary data products,[391] have created incentives for exchanges to develop enhanced proprietary data products that they sell to the same market participants that are subscribers to the SIP data, and to offer connectivity products and services (*e.g.,* co-location, fiber connectivity, and wireless connectivity) that provide low-latency access to the proprietary data products. Further, as the markets evolved and depth of book data became more important for some market participants, the exchanges continued to improve their proprietary data feeds without similarly improving the exclusive SIPs to reflect this market evolution. The content and latency differentials between SIP data and the proprietary market data products disseminated directly by the exchanges have become increasingly material.[392]

There are widespread and significant concerns about the current method of disseminating SIP data and its associated latencies.[393] The centralized consolidation model of the Equity Data Plans and the exclusive SIPs suffers from three specific sources of latency disadvantage: (a) Geographic latency, (b) aggregation or consolidation latency, and (c) transmission or communication latency.

Geographic latency, as used herein, refers to the time it takes for data to travel from one physical location to another, which must also take into account that data does not always travel between two locations in a straight line. Greater distances usually equate to greater geographic latency, though geographic latency is also affected by the mode of data transmission, as discussed below. The Commission understands that geographic latency is typically the most significant component of the additional latency that SIP data feeds experience compared to proprietary data feeds.[394] Because each exclusive SIP must collect data from geographically-dispersed SRO data centers, consolidate the data, and then disseminate it from its location to end-users, which are often in other locations, this hub-and-spoke form of centralized consolidation creates additional latency.[395] For example, information about quotes and trades on Nasdaq for NYSE-listed securities incurs latency as it travels from Nasdaq's data center in Carteret approximately 34.5 miles to the CTA/CQ SIP in Mahwah, and then back to Carteret.[396]

Aggregation or consolidation latency, as used herein, refers to the amount of time an exclusive SIP takes to aggregate the multiple sources of SRO market data into SIP data and includes calculation of the NBBO. This latency reflects the time interval between when an exclusive SIP receives data from an SRO and when it disseminates SIP data to the end-user. For years, market participants have claimed that the exclusive SIP aggregation speeds have remained measurably slower and uncompetitive with private market offerings.[397] For

[388] *See Bloomberg Decision, supra* note 37, at 3, 4. *See also infra* note 439.

[389] *See supra* note 42 and accompanying text.

[390] *See supra* note 21. The Senate Report stated that an exclusive processor of market information is, ''in effect, a public utility, and thus it must function in a manner which is absolutely neutral with respect to all market centers, all market makers, and all private firms.'' *See* Senate Report, *supra* note 5, at 7.

[391] *See* Regulation NMS Adopting Release, *supra* note 10, at 37567.

[392] *See infra* Section VI.B.2(b).

[393] *See, e.g.,* Letter to Brent J. Fields, Secretary, Commission, from Tyler Gellasch, Executive Director, Healthy Markets Association, 6 (Oct. 23, 2018) (''Healthy Markets Association Letter I'') (''SIP data feeds are still persistently slower and offer less information than is available through the private data feeds and connectivity offerings sold by the exchanges.'').

[394] *See, e.g.,* Letter to Brent J. Fields, Secretary, Commission, from Michael Blaugrund, Head of Transactions, New York Stock Exchange, 1 (Oct. 24, 2018) (''Blaugrund Letter'') (stating that, as ''processing time approaches zero, it is clear that the time required for trade and quote data to travel from Participant datacenter -> SIP datacenter -> Recipient datacenter, or 'geographic latency,' is a larger portion of the total latency.'').

[395] One commenter has stated ''[w]hile it is true that the latencies of the SIPs are slightly greater than those of direct exchange feeds, it is important to remember that the SIPs are a consolidation of all market data feeds, not a single feed. Therefore, the SIPs must first aggregate data from multiple exchanges located in geographically disparate data centers before processing and transmitting it to the market, which means their feeds will always be, by definition, slightly slower than the data a user can receive directly from an exchange.'' *See* Statement from the SIP Operating Committees Adding to SEC Commissioner Jackson's Recent Comments (Sept. 24, 2018), *available at https://www.nyse.com/publicdocs/ctaplan/notifications/trader-update/Media_Statement_from_SIP_Operating_Committees_Chair_Emily_Kasparov.pdf;* Nasdaq, Total Markets Report, *supra* note 127, at 20.

[396] *See* Roundtable Day One Transcript at 127 (Mark Skalabrin, Redline Trading Solutions) (stating that customers cannot be competitive using SIP data due to geographic latency, explaining ''[i]f you're sitting at Secaucus and you get a direct feed tick from BATS, it shows up in a few microseconds from when they publish it. That same tick for the SIP for Nasdaq-listed symbols goes to Carteret, for NYSE-listed symbols they go to Mahwah and they come back again. The real numbers are, for one, about 350 microseconds and the other about close to a millisecond in latency for those to show up for someone using the SIP to get the BATS tick. So this is just an architectural—an obsolete architecture, really, for an automated trading system in today's world . . . you can't be competitive with those kind of latencies compared to just getting it directly from the exchange.'').

[397] *See* Joel Hasbrouck, Price Discovery in High Resolution, New York University (Aug. 9, 2019 draft) (''The first analysis examines the extent to which the conventional source of market data (the consolidated tape) accurately reflects the prices observed by agents who subscribe (at additional cost) to direct exchange feeds. At a one-second resolution, the information share of the direct feeds is indistinguishable from that of the consolidated tape. At resolutions of 100 and 10 microseconds, however, the direct feeds are totally dominant, and the consolidated share approaches zero.''); Elaine Wah and Michael P. Wellman, Latency Arbitrage, Market Fragmentation, and Efficiency: A Two-Market Model, University of Michigan (2013) (''Given order information from exchanges, the SIP takes some finite time, say [X] milliseconds, to compute and disseminate the NBBO. A computationally advantaged trader who can process the order stream in less than [X] milliseconds can simply out-compute the SIP to derive NBBO*, a

Continued

example, in the second quarter of 2010, the average aggregation latency [398] for the Tapes A and B quotes and trades feeds exceeded 6,000 microseconds, and the Tape C feeds exceeded 5,500 microseconds.[399] In recent years, the Equity Data Plans operating committees have made some improvements to aspects of the exclusive SIPs and related infrastructure, including to address aggregation latency.[400] For example, as of the second quarter of 2019, Tapes A and B reduced average quote feed aggregation latency to 69 microseconds and trade feed aggregation latency to 139 microseconds.[401] As another example, Tape C reduced its average quote feed aggregation latency to an average of 16.9 microseconds for quotes and 17.5 microseconds for trades in the second quarter of 2019.[402] As shown by these latency statistics, however, aggregation latency for the CTA/CQ SIP data continues to be meaningfully greater than that of Nasdaq UTP SIP data, despite these improvements.[403]

Transmission latency, as used herein, refers to the time interval between when data is sent (*e.g.,* from an exchange) and when it is received (*e.g.,* at an exclusive SIP and/or at the data center of the subscriber), and the transmission latency between two fixed points is determined by the transmission communications technology through which the data is conveyed. Transmission latency will also vary depending on the geographic distance between where the data is sent and where it is received. There are several options currently used for transmitting market data, such as fiber optics, which typically are used by the exclusive SIPs for receipt and dissemination of SIP data, and wireless microwave connections, which the exchanges offer as an alternative for their proprietary data feeds but not for SIP data. Fiber optics use light to transmit data through glass fiber cables. Wireless microwave connections (including extremely high frequency millimeter waves) transmit data through the air via towers in line of sight of one another and are commonly used to transmit market data today. Fiber optics are generally more reliable than wireless networks since the data signal is less affected by weather; [404] however, fiber tends to suffer greater latency because of its dependence on geography: The cables often cannot be laid in the most direct manner, adding distance for the signal to travel. Light also travels slower through fiber than microwaves travel through the air. Laser transmission, a more recent addition to high speed market data transmission, is another wireless mode of transmission that is known to be faster than microwaves but less susceptible to weather conditions.[405]

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projection of the future NBBO that will be seen by the public. By anticipating future NBBO, an HFT algorithm can capitalize on cross-market disparities before they are reflected in the public price quote, in effect jumping ahead of incoming orders to pocket a small but sure profit.''); Herbert Lash, Potential Profit from U.S. ''Latency Arbitrage'' Trading May Be $3 Billion—Study, Reuters (Feb. 25, 2016).

[398] Average latency is only one latency metric. Another metric for the use of evaluating the performance of the exclusive SIP is latency at the 99th percentile, which means that 99% of exclusive SIP latency observations for a given period were below that value. The 99th percentile is often reflective of periods of peak message traffic. These outlier periods tend to be among the more important trading periods during the day, and exclusive SIP latencies have tended to lag in performance during these periods. For example, in the second quarter of 2019, the latency measurement at the 99th percentile for Tapes A and B trades was 648 milliseconds, which is over 4 times slower than the average latency. *See* CTA, Key Operating Metrics of Tape A&B U.S. Equities Securities Information Processor (CTA SIP), *available at https://www.ctaplan.com/publicdocs/CTAPLAN_Processor_Metrics_2Q2019.pdf* (last accessed Jan. 22, 2020).

[399] *Id.; see also* UTP Q4 2016—Dec. Tape C Quote and Trade Metrics, *available at http://www.utpplan.com/DOC/UTP_website_Statistics_-_Q4_2016_-_December.pdf* (last accessed Jan. 22, 2020).

[400] One commenter stated, ''In the last three years, the SIP Operating Committees have invested in the technology that powers them, increasing resiliency and redundancy while reducing latency . . .'' *See* Statement from the SIP Operating Committees Adding to SEC Commissioner Jackson's Recent Comments, *supra* note 395. Following the Nasdaq UTP SIP Outage—and a meeting between the equities and options exchanges, FINRA, DTCC, the Options Clearing Corporation, and the then-Chair of the Commission—the Equity Data Plans' operating committees discussed with Commission staff the operating committees' plans for the exclusive SIPs ''designed to improve operational resiliency, strengthen interoperability standards and disaster recovery capabilities, enhance governance, accountability, and establish a clear testing framework for the industry.'' *See* Self-Regulatory Organizations Response to SEC for Strengthening Critical Market Infrastructure (Nov. 12, 2013), *available at https://ir.theice.com/press/press-releases/all-categories/2013/11-12-2013;* NYSE Group Letter, at 3 (''[E]xchanges have invested significantly in the operation of the [SIPs], resulting in improved resilience and reduced latency, all while managing increased volumes.''); *infra* Section VI.B.

[401] *See* CTA, Key Operating Metrics of Tape A&B U.S. Equities Securities Information Processor (CTA SIP), *available at https://www.ctaplan.com/publicdocs/CTAPLAN_Processor_Metrics_2Q2019.pdf* (last accessed Jan. 22, 2020).

[402] *See* UTP Q3 2019—July Tape C Quote and Trade Metrics, *available at http://www.utpplan.com/DOC/UTP_website_Statistics_Q3-2019-July.pdf* (last accessed Jan. 22, 2020). Nasdaq has stated that the Nasdaq UTP SIP is ''faster at processing quote and trade messages than any Nasdaq-owned exchange trading system'' with an average SIP processing time of 16 microseconds, compared to 25 microseconds ''from entry of an order on the Nasdaq stock market until the associated quotation or execution or execution message is transmitted on the exchange's proprietary TotalView data feed.'' *See* Wittman Letter at 9. These latencies are perceived to be at or near competitive market standards. *See also* Roundtable Day One Transcript at 106 (statement of Oliver Albers, Nasdaq) (''There have been vast improvements in SIP data in recent years, even as SIP revenue to exchanges has fallen. The Nasdaq UTP SIP has an average latency of just 16 millionths of a second . . . The Nasdaq UTP SIP can also handle 10 billion messages per day, 20 times more than a decade ago, and significant cybersecurity and fraud prevention investments by Nasdaq and other operators have increased the overall market efficiency and resiliency.'').

[403] *See* Nasdaq Total Markets Report, *supra* note 127, at 19, n.19 (stating that the CTA/CQ SIP ''currently operates with over 100 microseconds of latency, which is not up to the standard that investors have come to expect in the modern markets.'').

[404] *See* Andriy Shkilko and Konstantin Sokolov, Every Cloud Has a Silver Lining: Fast Trading, Microwave Connectivity and Trading Costs (Apr. 2019), available at *https://ssrn.com/abstract=2848562.*

[405] *See* Reuters, Lasers, Microwave Deployed in High-Speed Trading Arms Race (May 1, 2013), *available at https://www.reuters.com/article/us-highfrequency-microwave/lasers-microwavedeployed-in-high-speed-trading-arms-race-idUSBRE9400L920130501;* ExtremeTech, New Laser Network between NYSE and Nasdaq Will Allow High-Frequency Traders to Make Even More Money (Feb. 14, 2014), *available at https://www.extremetech.com/extreme/176551-new-laser-network-between-nyse-andnasdaq-will-allow-high-frequency-traders-to-make-even-more-money;* ''The World's First Laser Network for Transporting Equities Market Data between Nasdaq and BATS/DirectEdge is Now Live and Operational'' (July 22, 2015), *available at https://anovanetworks.com/the-worlds-first-laser-network-for-transporting-equities-market-data-between-nasdaq-batsdirectedge-is-now-live-operational/;* ICE Global Network: New Jersey Metro, *available at https://www.theice.com/market-data/connectivity-and-feeds/wireless/new-jersey-metro* (last accessed Jan. 22, 2020).

The modes of transmission for SIP data are typically slower than the modes of transmission used for proprietary data. For example, proprietary data products offered by the exchanges often rely on low-latency wireless connections,[406] whereas the Equity Data Plans rely on fiber optics for connectivity.[407] Additionally, the NYSE, as the operator of the CTA/CQ SIP, has required that access to the CTA/CQ SIP be through the use of the NYSE's IP local area network. Recently, the NYSE submitted a proposed rule change to amend its prices related to co-location services to provide access to NMS feeds. The NYSE stated in that proposed rule change that the operating committee of the CTA and CQ Plans instituted this access requirement because of the IP network's security, resiliency, and redundancy.[408] The NYSE stated that the IP network is not a low-latency network, so ''the requirement to use the IP network to access the NMS feeds introduces a layer of latency.'' [409] The NYSE stated that it is in the process of building a low-latency network alternative to connect to the CTA/CQ SIP that would result in a one-way latency reduction of over 140 microseconds.[410]

Over the past several years, market participants have increasingly raised concerns about these various forms of latency and how they affect their ability to participate competitively in today's markets and provide best execution to their customers. Market participants have argued that as significant investments have been made in the proprietary data environment, the Equity Data Plans, which are operated by the SROs, have not made—or have been slow to make—the investments necessary to address most of these concerns.[411] As a result, the latency differentials, in their various forms, between SIP data and proprietary data are significant enough that market participants believe they affect their ability to trade competitively and to provide best execution to customer orders.[412]

Proprietary data products often rely on low latency wireless connections, and the data is transmitted directly from each exchange to the data center of the subscriber without first having to travel to a centralized consolidation location as is the case with the exclusive SIPs. In addition, new entities have entered the market data space by providing specialized market data products for subscribers using proprietary data feeds. In essence, the provision of proprietary data to market participants via a decentralized consolidation model has developed in a competitive environment that has enhanced content and reduced latency for market participants; however, improvements to latency occurred more slowly and to a lesser extent with the exclusive SIPs.[413] The concurrent existence of both the exclusive, centralized consolidation model for SIP data and the decentralized consolidation model for enhanced proprietary data has resulted in a two-tiered market data environment, where those participants that can reasonably afford and choose to

[406] Some of these services are solely offered by exchanges within the facility of an exchange (*e.g.,* co-location connectivity at NYSE's data center in Mahwah and Nasdaq's co-location at its data center in Carteret) and some are offered by both exchanges and other third party providers (*e.g.,* fiber and wireless connectivity between data centers). *See, e.g.,* Nasdaq Trade Management Services—Wireless Connectivity Suite, *available at http://n.nasdaq.com/WirelessConnectivitySuite* (last accessed on Jan. 22, 2020) (describing low-latency wireless network technology to deliver market data); ICE Global Network—Wireless, *available at https://www.theice.com/market-data/connectivity-and-feeds/wireless* (last accessed on Jan. 22, 2020) (describing low-latency wireless connectivity options between trading hubs).

[407] *See* Roundtable Day One Transcript at 99 (Stacey Cunningham, NYSE) (''[i]n the short term, we could use wireless technology to deliver SIP and overcome some of the geographic latencies.''); at 156–157 (Oliver Albers, Nasdaq) (stating that Nasdaq could consider permitting microwave transmission from the exchanges to the Nasdaq UTP SIP); ICE Global Network & Colocation: Technical Specifications (Oct. 2019), *available at https://www.nyse.com/publicdocs/data/IGN_Colo_US_Technical_Specifications.pdf.*

[408] *See* NYSE Low-Latency SIP Filing, *supra* note 47. NYSE currently assesses the following colocation fees for access to the IP network: (1) For a 1 gb circuit, $2,500 per connection initial charge plus $2,500 monthly per connection; (2) for 10 gb circuit, $10,000 per connection initial charge plus $11,000 monthly per connection; and (3) for a 40 gb circuit, $10,000 per connection initial charge plus $18,000 monthly per connection. *See* NYSE Price List 2020, *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf* (last accessed Jan. 22, 2020).

[409] *See* NYSE Low-Latency SIP Filing, *supra* note 47, at 47594. The filing defines ''NMS feeds'' to include the data streams of the Consolidated Tape System, the Consolidated Quote System, and the Options Price Reporting Authority (''OPRA'').

[410] *Id.* The Commission understands this to mean that, currently, each of the CTA/CQ Plan participants must transmit its data through connectivity options that have a round-trip latency of at least 280 microseconds [140 microsecond one-way latency) * 2 = 280 microsecond round-trip latency]. The Commission believes that this is in addition to the transmission latency that is in the published CTA average aggregation latency metrics of between 69 microseconds for the quote feed and 139 microseconds for the trade feed. *See* CTA, Key Operating Metrics of Tape A&B U.S. Equities Securities Information Processor (CTA SIP), *supra* note 398 (regarding the second quarter of 2019). The round-trip latency of 280 microseconds would increase the 2Q19 realized CTA aggregation latency to 349 microseconds (from 69 microseconds) for the quotes feed and 419 microseconds (from 139 microseconds) for the trade feed. At the same time, the Commission understands that NYSE, which owns the CTA/CQ SIP, offers non-SIP proprietary data transmission to end-users via faster microwave networks. *See, e.g.,* ICE Global Network: Chicago—New Jersey, *available at https://www.theice.com/market-data/connectivity-and-feeds/wireless/chicago-to-new-jersey* (last accessed Jan. 22, 2020) (describing ICE's microwave route between the Chicago metro trading hub to Nasdaq's data center in Carteret, NJ); ICE Global Network: New Jersey Metro, *available at https://www.theice.com/market-data/connectivity-and-feeds/wireless/new-jersey-metro* (last accessed Jan. 22, 2020) (describing ICE's laser and millimeter wave route between ICE's Mahwah data center and the Carteret and Secaucus data centers. The Commission has instituted proceedings to allow for additional analysis and input concerning proposed fees in connection with the NYSE Low-Latency SIP Filing. *See* Securities Exchange Act Release No. 87699 (Dec. 9, 2019), 84 FR 68239 (Dec. 13, 2019). In addition, the CTA and OPRA recently made changes that permit access to the NMS feeds with an expected reduction in latency. ''The NMS Network uses low-latency network switches and optimized topology to minimize latency, which [CTA and OPRA] expects will result in one-way latency, across all network hops, of approximately 5us, including fiber latency. This is a substantial improvement over the current inbound one-way latency of approximately 144us over [Secure Financial Transaction Infrastructure].'' *See* NMS Network Customer FAQs, at 3 (2019), *available at https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/NMS_Network_FAQ.pdf* (last accessed Jan. 22, 2020); CTA and UTP Annual Letter, *supra* note 181, at 1 (''In its continuing effort to reduce latency and improve resiliency, the CTA will be making two improvements to the CTA/CQ feeds this year. First, subscribers will be able to connect to a new, dedicated, low latency NMS network to access CTA/CQ feeds. Subject to SEC approval, this should be available in the first quarter of 2020. Second, the CTA will complete its migration to NYSE's new Pillar technology, which will provide substantial latency reductions for the CTA/CQ feeds. CTA anticipates that it will launch the new technology in the summer of 2020.'').

[411] *See* Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, to Mary Jo White, Chair, Commission, 8–9 (Oct. 24, 2014), *available at https://www.sec.gov/comments/s7-02-10/s70210-422.pdf;* Letter from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC, to Vanessa Countryman, Secretary, Commission (Sept. 24, 2019) (''Ramsay Letter II'') (attachment to letter), available at *https://www.sec.gov/comments/4-729/4729-6190352-192448.pdf;* Proposed Governance Order, *supra* note 8.

[412] *See, e.g.,* Roundtable Day One Transcript at 64 (Brad Katsuyama, IEX) (''[a]nyone who cares or is, you know, making machine-level decisions cannot use the SIP just from a speed standpoint . . . [b]ut if full information and speed become important, which it is for the majority of large players maintaining their own electronic trading platform, then I would not say the SIP serves much of a purpose to them.''); at 66 (Mehmet Kinak, T. Rowe Price (''[t]his is a best execution obligation. We are obligated to try and produce best execution on every single order that we have. If our brokers are not aligned in that manner to use the most direct, the fastest, the most robust feeds they can get their hands on, then we will trade with someone else.''); T. Rowe Price Letter at 2 (explaining that broker-dealers must purchase proprietary data because SIP data is slow and not as expansive as proprietary data and that even if the Commission provided a safe harbor permitting broker-dealers to fulfill their best execution requirements by relying on SIP data, broker-dealers believe that they have an obligation to obtain the ''more robust, faster'' proprietary data feeds).

[413] *See supra* note 411 and accompanying text.

pay for the proprietary feeds receive other content rich data faster than those who do not, such as smaller market participants that face higher barriers to entry from data and other exchange fees.[414] The Commission is concerned about this disparity and its effect on investors. Accordingly, the Commission is proposing to address the latency differentials and reduce the asymmetries that exist within this two-tiered environment.

B. Proposed Decentralized Consolidation Model

To enhance the speed and quality of the collection, consolidation, and dissemination of the proposed consolidated market data, the Commission is proposing a decentralized consolidation model with competing consolidators [415] and self-aggregators [416] to replace the existing centralized consolidation model which relies on the exclusive SIPs.[417]

The Commission preliminarily believes that a decentralized consolidation model with competing consolidators and self-aggregators would benefit market participants because it would significantly reduce the geographic, aggregation, and transmission latency differentials that exist between SIP data and proprietary data that have increasingly reduced the utility of SIP data and disadvantaged, in particular, smaller market participants.[418] Specifically, as discussed above, the Commission preliminarily believes that the decentralized consolidation model would reduce geographic latency by facilitating the ability of proposed consolidated market data to be delivered to subscribers more directly, without going to a separate location to be consolidated by the exclusive SIPs.[419] In addition, the proposed decentralized consolidation model likely would reduce geographic latency by allowing consolidation to occur at the data center where a data end-user is located instead of occurring only at the CTA/CQ SIP and the Nasdaq UTP SIP data centers. This arrangement would permit competing consolidators to receive data from each exchange directly at the point of consolidation and latency-sensitive data end-users to receive proposed consolidated market data at the same location if they so desired.[420] This would eliminate the geographic latency necessarily encountered when a latency-sensitive data end-user receives consolidated data from an exclusive SIP that is in a separate data center and that exclusive SIP is consolidating data from exchanges that are located in other data centers.

In addition, the Commission preliminarily believes that the introduction of competitive forces will lead to improvements in the use of more competitive, low latency aggregation and transmission technologies for consolidated market data. Specifically, competition should incentivize competing consolidators to minimize the amount of time it takes to aggregate SRO data into proposed consolidated market data.[421] In addition, competition could incentivize competing consolidators to reduce transmission latency by offering superior connectivity options that are faster than fiber optics, such as microwave, laser, or other wireless means of connectivity.[422] Competing consolidators and self-aggregators would not be restricted to the transmission methods mandated by the Equity Data Plans [423] and would compete based on the efficiency of their aggregation of raw SRO data to generate proposed consolidated market data. By introducing competitive forces into the collection, consolidation, and dissemination of proposed consolidated market data, the Commission preliminarily believes such data could be delivered to market participants with improved efficiencies and latencies comparable to proprietary market data products.

To implement this model, the Commission proposes to: (1) Amend Rule 600 to introduce definitions of competing consolidator and self-aggregator; (2) amend Rule 603(b) to require the SROs to provide their NMS information to competing consolidators and self-aggregators in the same manner the SROs make available this information to any person and to remove the requirement that there be only one plan processor for each NMS stock; and (3) adopt new Rule 614 to require the registration of competing consolidators and establish the obligations with which they must comply and a new Form CC for competing consolidator registration. In addition, the Commission is proposing to amend Regulation SCI to expand the definition of ''SCI entities'' to include competing consolidators because they would be sources of proposed consolidated market data, and therefore would ''play a significant role in the U.S. securities markets and/or have the potential to impact investors, the overall market, or the trading of individual securities.'' [424] As discussed below, the Commission preliminarily believes that if a competing consolidator's consolidated market data feed became unavailable or otherwise unreliable, it could have a significant impact on the trading of securities, and could interfere

[414] *See infra* note 418.

[415] *See infra* Section IV.B.2.

[416] *See infra* Section IV.B.3.

[417] The Commission is taking an incremental approach to addressing market data infrastructure issues and is at this time addressing only the market data infrastructure issues of NMS stocks. The market data needs of options market participants and equities market participants are different, as are the market structures for options and equities more broadly. The Commission's proposal to expand the content of consolidated market data and introduce a decentralized consolidation model for its distribution to market participants has been designed for NMS stocks. The Commission may in the future consider the market data infrastructure of listed options. *See also* Proposed Governance Order, *supra* note 8.

[418] *See infra* Section VI.C.2(c). Roundtable panelists stated that broker-dealers do not have the option to forgo buying the proprietary data in meeting their clients' needs because the SIPs are slower and not as expansive. *See* Roundtable Day One Transcript at 65–66 (Mehmet Kinak, T. Rowe Price); T. Rowe Price Letter at 2; Roundtable Day Two Transcript at 245 (Tyler Gellasch, Healthy Markets) (asking how a small firm can be competitive when it has to spend $50,000 per month to connect to one exchange group's proprietary data feeds), at 280–281 (describing market data as a mandatory ''tax'' on doing business that imposes a disproportionately large burden on small brokers). *But see* Robert P. Bartlett, III and Justin McCrary, How Rigged Are Stock Markets? Evidence from Microsecond Timestamps (2017) (''Bartlett and McCrary''), *available at https://www.law.berkeley.edu/wp-content/uploads/2019/10/bartlett_mccrary_latency2017.pdf* (''[O]ur analysis suggests SIP reporting latencies generate remarkably little scope for exploiting the informational asymmetries available to subscribers to exchanges' direct data fees.''). Bartlett and McCrary, however, cautioned that their ''results should not be over-interpreted'' and noted that their results ''do not rule out other types of latency arbitrage that might be prevalent in the current environment.'' Roundtable respondents supported the view that a competing consolidator model would reduce the speed differential between current SIP data and proprietary data. *See, e.g.,* Roundtable Day One Transcript at 49–50 (Prof. Hal Scott, Harvard University); SIFMA Letter II.

[419] As noted above, the current Equity Data Plan architecture requires SRO data to be sent from an SRO's data center to the exclusive SIP (typically in a separate data center in a different geographic location) for consolidation, prior to then being transmitted from the plan processor's data center to market data users (again, typically in a separate data center in a different geographic location) once the data is consolidated. *See supra* notes 395–396 and accompanying text.

[420] If a competing consolidator chooses not to consolidate data at the data center of its users, the Commission believes the users would still benefit from reduced aggregation and transmission latencies resulting from the proposed decentralized consolidation model. *See infra* notes 421–422 and accompanying text.

[421] The Commission is proposing to require each competing consolidator to publish on its website its latency statistics on a monthly basis. *See infra* Section IV.B.2(e)(ii).

[422] *See infra* Section VI.C.2(c).

[423] As noted above, the NYSE and Nasdaq offer faster wireless connectivity to their data centers and other data centers. *See supra* Section IV.A.

[424] *See* Regulation SCI Adopting Release, *supra* note 28, at 72258.

with the maintenance of fair and orderly markets.[425] Accordingly, this change would subject competing consolidators to the requirements of Regulation SCI. Under this new proposed decentralized consolidation model, the SROs would be required to provide their NMS information to competing consolidators and self-aggregators and the existing exclusive SIP model would cease.

The Commission preliminarily believes that the implementation of a decentralized consolidation model with competing consolidators and self-aggregators will fundamentally improve the way consolidated market data, as proposed, is provided in the U.S. Among other things, this model should materially reduce information asymmetries for those market participants who rely exclusively on the exclusive SIP feed and facilitate the ability to achieve best execution for those broker-dealers who rely exclusively on the SIP feed. Finally, the Commission believes that the introduction of competition into the collection, consolidation, and dissemination of the proposed consolidated market data should help ensure that such data continues to be provided in an accurate, reliable, prompt, and fair manner[426] as the market evolves in the future.

1. Access to Data

The Commission is proposing to amend Rule 603(b) of Regulation NMS to reflect the decentralized consolidation model by requiring each SRO to provide its NMS information, including all data necessary to generate proposed consolidated market data, to all competing consolidators and self-aggregators[427] in the same manner and using the same methods, including all methods of access[428] and data formats, as such SRO makes available any information to any other person.[429]

Under the Commission's proposed approach, competing consolidators and self-aggregators would have to collect, and the SROs would provide, all of each SRO's market data that is necessary to generate consolidated market data as proposed,[430] and the competing consolidators and self-aggregators would aggregate the SROs' market data to generate the proposed consolidated market data. For exchange data, an exchange could leverage its existing offerings and infrastructure and make available to competing consolidators and self-aggregators its current proprietary data products that contain data elements that are specified in the proposed definition of consolidated market data,[431] or an exchange could develop a new market data product that contains only the data elements that are specified in the proposed definition of consolidated market data. Competing consolidators and self-aggregators could choose to purchase products that include only the proposed consolidated market data elements or products that contain elements of both proposed consolidated market data and other proprietary data. However, all SROs must offer market data, and access to such data, to those competing consolidators or self-aggregators that elect to purchase only data that would be necessary to create consolidated market data, as required under the proposed rule amendments.

The proposed decentralized consolidation model and the proposed consolidated market data definition do not preclude the exchanges from continuing to sell proprietary data. If an exchange provided its proprietary data products to a competing consolidator or self-aggregator and a competing consolidator or self-aggregator developed a product, or otherwise used data, that exceeded the scope of proposed consolidated market data (*e.g.,* full depth of book data), the competing consolidator or self-aggregator would be charged separately for the proprietary data use pursuant to the individual exchange fee schedules.[432] Self-aggregators and competing consolidators that limit their use of exchange data to proposed consolidated market data elements would be charged only for proposed consolidated market data pursuant to the effective national market system plan(s) fee schedules.[433] As noted above, under the proposed decentralized consolidation model, SROs must make available market data to competing consolidators or self-aggregators that elect only to purchase

[425] *See infra* Section IV.B.2(f).

[426] *See* 15 U.S.C. 78k–1(c)(1)(B).

[427] The proposal does not include a requirement that the SROs provide a standardized format for the data because the Commission preliminarily believes that imposing a standardized format would increase costs and burdens on the SROs and that competing consolidators and self-aggregators would be able to handle data received in multiple formats, as determined by each SRO, as is the case today for proprietary data. The Commission is proposing to require each SRO to offer the same access or transmission options and the same formats offered for proprietary data to proposed consolidated market data. *See* proposed amendment to Rule 603(b).

[428] For example, the same access options available to proprietary feeds, including, but not limited to transmission medium (*i.e.,* fiber optics or wireless), multicast communication, colocation options, physical port, logical port, bandwidth, and FPGA, would be required to be made available for proposed consolidated market data feeds. Further, any enhancements to proprietary feed methods of access should similarly be made to consolidated market feeds.

[429] Four commenters supported this approach. One commenter stated that for a new consolidator model to be competitive, the consolidators would have to have the right to buy data from exchanges on non-discriminatory terms. *See* Ramsay Letter II (attachment to letter). Another commenter stated that the economic terms of co-located competing consolidators at an exchange data center should be equivalent to those offered to the exchange's trading members. This commenter also suggested that any exchange that operates a competing consolidator in its data center should have policies and procedures to ensure that competing consolidators in the same data center have equal access to the exchange's feeds at equal latencies. This commenter also supported the provision of direct market data feeds by exchanges to competing consolidators. *See* Letter to Brent J. Fields, Secretary, Commission, from Melissa MacGregor, Managing Director and Associate General Counsel, and Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, dated Oct. 24, 2018 (''SIFMA Letter'') (attachment to letter). The third commenter stated that all market data distributors should receive the same market data at the same time and at the same cost, which may require exchange proprietary data feeds to be delayed to match the data receipt time of affiliated or third-party SIPs. The commenter said that exchanges, affiliates, and third parties then would be able to compete to provide market data to recipients. *See* Letter to Jay Clayton, Chairman, Commission, from Tyler Gellasch, Executive Director, Healthy Markets Association, 3 (Jan. 3, 2020) (''Healthy Markets Association Letter III''). The fourth commenter suggested that the Commission update its interpretations for Rule 603(a) to emphasize ''the synchronized availability of data between SIP and exchanges' proprietary products to satisfy the fair and reasonable, as well as non-discriminatory principles.'' *See* Letter to Vanessa Countryman, Secretary, Commission, from Kelvin To, Founder and President, Data Boiler Technologies, LLC, 8 (Dec. 6, 2019) (''Data Boiler Letter''). The Commission believes that its proposed amendment to Rule 603(b), as discussed below, would achieve this result by requiring the same manner and methods, including all methods of access and the same format for competing consolidators, self-aggregators and subscribers of proprietary data.

[430] One commenter advocated that each exchange provide a single data feed to market participants. The commenter said that a single data feed ''would better serve market participants from the standpoint of equality and fairness.'' *See* T. Rowe Price Letter at 3. The proposed rule does not require the SROs to provide a single feed. The Commission preliminarily believes that the SROs should be able to utilize their current data feeds to make available the data necessary to generate proposed consolidated market data. This would reduce the costs and burdens of implementing the proposed amendments to Rule 603(b).

[431] For example, an exchange could make available a current proprietary DOB product that contains elements of proposed core data to competing consolidators and self-aggregators for purposes of Rule 603(b).

[432] Fees for market data that is outside of the proposed definition of consolidated market data (*i.e.,* proprietary data products, and access to such proprietary data products) would be subject to the rule filing process pursuant to Section 19(b) and Rule 19b–4. As discussed above, competing consolidators would be able to develop products for their subscribers based on subscriber demand. *See supra* notes 322–323 and accompanying text.

[433] Fees for proposed consolidated market data would be subject to the NMS plan process pursuant to Rule 608 of Regulation NMS. *See infra* Section IV.B.4 for a discussion of the effective national market system plan(s).

data necessary for the proposed consolidated market data.[434]

Currently, the exclusive SIPs are subject to Exchange Act Section 11A(c)(1)(C) (as implemented by Rule 603(a)(1)), which requires that exclusive processors (which include the exclusive SIPs and SROs when they distribute their own data) must assure that all securities information processors may obtain on fair and reasonable terms information with respect to quotations for and transactions in securities, which includes consolidated market data.[435] Section 11A(c)(1)(D), in turn (as implemented by Rule 603(a)(2)), requires that the SROs provide such data to broker-dealers and others on terms that are not unreasonably discriminatory. As we have noted, competing consolidators will be securities information processors and thus Exchange Act Section 11(A)(c)(1)(C) will continue to apply. Similarly, self-aggregators are broker-dealers and thus Exchange Act Section 11A(c)(1)(D) will continue to apply.

The Commission seeks to ensure that consolidated market data is widely available for reasonable fees.[436] In discharging its statutorily mandated review function, the Commission must assess the proposed fees and determine whether they are fair and reasonable, and not unreasonably discriminatory.[437] The Commission must have ''sufficient information before it to satisfy its statutorily mandated review function''—that the fees meet the statutory standard.[438] The Commission has previously stated that fees for consolidated SIP data can be shown to be fair and reasonable if they are reasonably related to costs.[439]

The exchanges would be able to offer different access options (*e.g.,* with different latencies, throughput capacities, and data-feed protocols) to market data customers, but any access options available to proprietary data customers must also be available to competing consolidators and self-aggregators for the purpose of collecting and consolidating proposed consolidated market data.[440] Proposed Rule 603(b) would require exchanges to provide all forms of access used for proprietary data to all competing consolidators and self-aggregators for the collection of the data necessary to generate proposed consolidated market data. The Commission is proposing to require that an exchange offer the same form of access, such as fiber optics, wireless, or other forms, in the same manner and using the same methods, including all methods of access and the same format, as the exchange offers for its proprietary data. For instance, if an exchange has more than one form of transmission for its proprietary data, then the exchange must offer the competing consolidators and self-aggregators those types of transmission for proposed consolidated market data. The proposed rule would not require an exchange to offer new forms of access, but if an exchange did offer any new forms of access for proprietary data, it would have to offer them for proposed consolidated market data as well. Different forms of access affect the delivery of data. For example, as discussed above, fiber connections have latencies that wireless connections do not. If an exchange provided its proprietary market data via wireless connections and proposed consolidated market data only via fiber connections, the latencies that exist today would continue. Accordingly, the Commission preliminarily believes that the SROs should be required to provide proposed consolidated market data in the same manner and using the same methods, including all methods of access and the same format as they provide for proprietary data.

The Commission understands that different market participants have different access needs. The Commission is not mandating a specific connectivity option or limiting options for market participants but believes that all connectivity options, including co-location, must be available to all market participants whether they are purchasing proposed consolidated market data or proprietary data. In addition, the access requirement under Rule 603(b) would require that the exchanges provide their NMS information, including all data necessary to generate consolidated market data, at one data dissemination location co-located near each exchange's matching engine. This requirement would allow competing consolidators and self-aggregators to receive data at that location at the same speeds, and with the same access options, as the exchange offers its market data. Different colocation options within a data center could raise concerns about whether that exchange is providing the same manner of access to its data as proposed to be required under Rule 603(b). Further, the exchanges would not be permitted to provide their NMS information necessary to generate consolidated market data in a faster manner to any affiliate exchange, a subsidiary or other affiliate that operates

[434] Vendors would still be able to operate in the decentralized consolidation model. Vendors would be able to receive proprietary market data directly from the SROs as they do today or they would be able to receive consolidated market data from a competing consolidator in a manner that is similar to how they receive SIP data today without being required to register as a competing consolidator. However, if a vendor wished to receive directly from the SROs information with respect to quotations for and transactions in NMS stocks at the prices established by the effective national market system plan(s) and generate consolidated market data for dissemination, such vendor would be required to register as a competing consolidator. Thus, only competing consolidators and self-aggregators would be able to directly receive the NMS information that is necessary to generate consolidated market data from the SROs at the prices established by the effective national market system plan(s). *Id.*

[435] 15 U.S.C. 78k–1(c). *See also* Rule 603(a)(1)–(2) of Regulation NMS, 17 CFR 242.603(a)(1)–(2).

[436] *Bloomberg Decision, supra* note 37, at 4, n.12 (citing Regulation NMS Adopting Release, *supra* note 10, at 37560) (''In the Proposing Release, the Commission emphasized that one of its primary goals with respect to market data is to assure reasonable fees that promote the wide public availability of consolidated market data.'').

[437] *See* 15 U.S.C. 78k–1(c); *see also* Rules 603(a)(1)–(2), 608 of Regulation NMS, 17 CFR 242.603(a)(1)–(2), 608; *Bloomberg Decision, supra* note 37, at 11–12.

[438] *Bloomberg Decision, supra* note 37 at 15; cf. Rule of Practice 700, 17 CFR 201.700 (providing that the burden of demonstrating that a proposed rule change satisfies statutory standards is on the self-regulatory organization that proposed the rule change).

[439] In the Market Information Concept Release, the Commission stated ''the fees charged by a monopolistic provider (such as the exclusive processors of market information) need to be tied to some type of cost-based standard in order to preclude excessive profits if fees are too high or underfunding or subsidization if fees are too low. The Commission therefore believes that the total amount of market information revenues should remain reasonably related to the cost of market information.'' *See* Market Information Concept Release, *supra* note 11, at 70627. The Commission later explained that because core data must be purchased, their fees are less sensitive to competitive forces. *See* Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782 (Dec. 9, 2008) (File No. SR–NYSEArca–2006–21). A reasonable relation to costs has since been the principal method discussed by the Commission for assessing the fairness and reasonableness of such fees for core data, with the recognition that ''[t]his does not preclude the Commission from considering in the future the appropriateness of another guideline to assess the fairness and reasonableness of core data fees in a manner consistent with the Exchange Act.'' *See Bloomberg Decision supra* note 37, at 15 & nn.63. Although this proposal introduces competition into the dissemination of consolidated market data, the mandatory nature of the provision of consolidated market data by the SROs has not changed. The ''principal method we have discussed for assessing the fairness and reasonableness of core data fees has stated that core data fees should bear at least some relationship to costs; past Commission statements have contemplated various approaches for how that relationship might be assessed. This is because distributors of core data have an effective monopoly over such data, and accordingly competitive market forces are not operating to impose sufficient constraints to promote core data fees' fairness and reasonableness.'' *See Bloomberg Decision, supra* note 37, at 15 (footnotes and citations omitted).

[440] *See* Rule 603(a) of Regulation NMS, 17 CFR 242.603(a). Access fees would be set forth in each individual SRO's fee schedules.

as a competing consolidator or a subsidiary or affiliate that competes in the provision of proprietary data.

Furthermore, proposed Rule 603(b) would require that all access options be provided in a latency-neutralized manner such that all participants within the exchange's data center—such as proprietary data subscribers, competing consolidators, and self-aggregators—would receive the data at the same time, regardless of their location or status within the data center.[441] For example, exchanges could adopt equal cable length protocols (*i.e.,* where cable lengths from network equipment to customer cabinets are harmonized for equal access) to ensure that all of the exchange's data center connections provide market data simultaneously. The proposed decentralized consolidation approach would require the SROs to use the same latency-neutralization processes for competing consolidators and self-aggregators as they offer to subscribers of proprietary data.

The Commission is also proposing to remove the requirement in Rule 603(b) that ''all consolidated information for an individual NMS stock [be disseminated] through a single plan processor.'' [442] While this requirement is necessary for the centralized consolidation model, it would be inconsistent with the proposed decentralized consolidation model, which would allow multiple competing consolidators to disseminate proposed consolidated market data in individual NMS stocks and would permit self-aggregators to collect and generate proposed consolidated market data for individual NMS stocks for their own internal uses.

The Commission preliminarily believes that the proposed amendments to Rule 603(b) would be consistent with the goals of Section 11A of the Exchange Act by helping to ensure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of NMS information, as well as the fairness and usefulness of such data.[443]

The Commission requests comment on the proposed amendments to Rule 603(b) of Regulation NMS. In particular the Commission solicits comment on the following:

64. Should the SROs be required to provide all of their market data with respect to NMS stocks to competing consolidators and self-aggregators? Should the SROs charge fees based on the use of the data, *e.g.,* fees for proposed consolidated market data set by the effective national market system plan(s) and fees for proprietary data set by individual SROs? Should the SROs only be required to provide the market data that is necessary to generate and calculate proposed consolidated market data? Or, should the determination as to how best to provide the market data that is necessary to generate and calculate proposed consolidated market data be left to the discretion of SROs? What are the benefits and costs of each of these potential approaches?

65. Should the SROs be required to offer both proposed consolidated market data and proprietary data to competing consolidators from the same platform and using the same technology infrastructure at an exchange data center for both products?

66. Should the SROs be required to offer both proposed consolidated market data and proprietary data to competing consolidators from the same platform and using the same SRO infrastructure where the pricing model for the different products is based on data use as opposed to being based upon distinct data feeds?

67. Should the SROs be permitted to process their market data before providing it to competing consolidators and self-aggregators? For example, should the SROs be permitted to aggregate odd-lots before providing data to competing consolidators and self-aggregators? If so, why and to what extent? Should such processing only be allowed to the extent that it does not result in any latency differential between processed and unprocessed data? Alternatively, should such processing be required to facilitate ease of use for certain customers?

68. Should exchanges be required to permit co-location of competing consolidators and self-aggregators within their data centers? If so, should the fees charged for such colocation be subject to the effective national market system plan(s) for NMS stocks?

69. Should all data disseminated by the SROs to competing consolidators and self-aggregators be in the same format (*e.g.,* aggregated vs. message-by-message depth of book)? Please explain the expected benefits and costs of allowing for multiple formats for data dissemination.

70. Should the SROs make historical data freely available to market participants at a specified location and in a specified format? Why or why not?

71. Is there anything different about having competing consolidators or changing the content of consolidated market data that should affect the analysis of the fairness and reasonableness of fees for data distributed pursuant to an NMS plan, or how the NMS plan participants demonstrate the fairness and reasonableness of those fees? If so, please explain why.

72. Do commenters believe that the Commission should also require the SROs to provide a connectivity option solely for access to the NMS information necessary to generate proposed consolidated market data?

2. Competing Consolidators

As noted above, currently Rule 603(b) requires all consolidated information for an individual NMS stock to be disseminated through a single plan processor.[444] While the Commission has issued a proposed order that would direct the SROs to develop a single ''New Consolidated Data Plan'' with a new governance structure,[445] the Commission now proposes to update and modernize the manner in which NMS information is collected, consolidated, and disseminated. The Commission is proposing to amend Regulation NMS to introduce competitive forces as one of several means to update and modernize the provision of proposed consolidated market data. Competing consolidators would replace the existing exclusive SIPs and would collect NMS information from each of the SROs.[446] Thereafter, competing consolidators would calculate, consolidate, and disseminate the data as consolidated market data, as proposed to be defined.[447] The Commission

[441] *See also* Rule 603(a) of Regulation NMS, 17 CFR 242.603(a); *supra* note 440 and accompanying text.

[442] 17 CFR 242.603(b).

[443] *See* Section 11A(c)(1)(B) of the Exchange Act, 15 U.S.C. 78k–1(c)(1)(B). Section 11A(c)(1)(B) of the Exchange Act authorizes the Commission to prescribe rules, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act, that assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of quotation and transaction information, as well as the fairness and usefulness of the form and content of such data. *Id.*

[444] Rule 603(b) of Regulation NMS, 17 CFR 242.603(b). *See also supra* Section II.B.

[445] *See* Proposed Governance Order, *supra* note 8.

[446] The existing exclusive SIPs would be required to continue their operations until such time as the Commission considers and approves an NMS plan amendment that would effectuate a cessation of their operations. *See infra* Section IV.B.6. Should the existing exclusive SIPs choose to become competing consolidators, proposed Rule 614(a) mandates a registration process for securities information processors that wish to become competing consolidators. *See infra* Section IV.B.2(e). If the existing exclusive SIPs choose to cease operations, the SROs would be required to amend the effective national market system plan(s) for NMS stocks to reflect this change.

[447] As discussed in Section IV.B.2(f), *infra,* because competing consolidators would be the sources of proposed consolidated market data, the Commission is proposing to define them as ''SCI

Continued

preliminarily believes that the proposed amendments to Regulation NMS to introduce competing consolidators should help to ensure the ''prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in such securities and the fairness and usefulness of the form and content of such information.'' [448] Further, the Commission preliminarily believes that these new market data providers could help to effectively address the latency concerns related to the exclusive SIPs, as well as the cost concerns that have been raised regarding the need to buy both SIP data from the Equity Data Plans as well as proprietary data from the exchanges, and add resilience to the collection, consolidation and distribution of consolidated market data by having redundant systems perform these functions rather than an exclusive SIP.

(a) Previous Consideration of Competing Consolidators Under Regulation NMS

The Commission previously considered introducing competitive forces to the dissemination of SIP data when it proposed and adopted Regulation NMS. Specifically, the Commission discussed a competing consolidator model [449] that, as described, would have retained the consolidated display requirement of the predecessor to Rule 603(c) of Regulation NMS but would have eliminated the Equity Data Plans and the two exclusive SIPs.[450] Under the competing consolidator model that was being considered, each SRO would be allowed to establish its own fees, enter into and administer its own market data contracts, and provide its own data distribution facility.[451] Competing consolidators would purchase data from the individual SROs, consolidate it, and distribute it to investors and other data users.[452]

At that time, however, the Commission noted several drawbacks to that competing consolidator model,[453] including: (1) A lack of uniform data distribution to the public, (2) the potential for an increase in processing costs due to multiple consolidators performing tasks previously performed by a single processor, and (3) the risk that the fees for core data, as then contemplated, could increase because payment of every SRO's fees would be mandatory, thereby affording little room for competitive forces to influence the level of fees.[454]

When addressing its concerns about a potential loss of data uniformity, the Commission explained that a report issued by the Advisory Committee on Market Information, which prompted consideration of a competing consolidator model in the Regulation NMS Proposing and Adopting Releases,[455] noted four types of quality problems that could arise from the competing consolidator model relating to: (1) Sequencing of information, (2) validation tolerances, (3) capacity, and (4) data protocols and formats.[456] With respect to information sequencing, the report stated that the competing consolidator model would impose a risk that market data messages would be processed in different sequences by different consolidators due to the use of differing hardware, software, or communications platforms to process market data. On validation tolerances, the report stated that standards would need to be established for competing consolidators to verify the consistency of information (such as the NBBO), since the plan processors currently check all market center messages to verify that they utilize correct message structures. The report stated that competing consolidators must have sufficient capacity (for example, specifying network capacity, input, output line, system, internal system threading, storage and memory capacity, and database size) to process the information from all reporting market centers, explaining that if capacity is lacking, messages will be delayed to data recipients. Finally, with respect to data protocols and formats, the report said that the use of different protocols, message formats, and technologies by different consolidators could make the market data system more cumbersome and prone to error. The report noted that exclusive SIPs currently receive market center information using standard input formats and disseminate consolidated data using standard output formats.[457]

Ultimately, the Commission concluded that investors and other data users would bear the most risk in switching to a competing consolidator model, while the SROs would benefit by being able to charge higher fees for lower quality information;[458] therefore, the Commission decided not to propose the competing consolidator model for adoption.[459]

In the Regulation NMS Adopting Release, the Commission focused its discussion on the extent to which the competing consolidator model would subject the level of market data fees to competitive forces.[460] The Commission stated that market participants would need to purchase data from the SROs and expressed concern that ''the overall level of fees would not be reduced unless one or more of the SROs or Nasdaq was willing to accept a significantly lower amount of revenue than they are currently allocated by the Plans.'' [461] The Commission believed that it was ''unlikely that any SRO or Nasdaq would voluntarily propose to lower just its own fees.'' Rather, the Commission stated that some SROs, ''particularly those with dominant market shares whose information is most vital to investors,'' might propose higher fees to increase their revenues.[462]

entities,'' and thus subject to the requirements of Regulation SCI. The Commission proposes to amend Rule 1000 of Regulation SCI to effect this change. *See* proposed amendment to Rule 1000 of Regulation SCI. *See also* 17 CFR 242.1000.

[448] 15 U.S.C 78k–1(c)(1)(B).

[449] The competing consolidator model was recommended by the Advisory Committee on Market Information (''Advisory Committee on Market Information''), which had been formed to consider market data issues. *See* Report of the Advisory Committee on Market Information: A Blueprint for Responsible Change (Sept. 14, 2001), *available at https://www.sec.gov/divisions/marketreg/marketinfo/finalreport.htm*.

[450] *See* Securities Exchange Act Release No. 49325 (Feb. 26, 2004), 69 FR 11126 (Mar. 9, 2004) (''Regulation NMS Proposing Release''), at 11177–11178; Regulation NMS Adopting Release, *supra* note 10, at 37558–37559.

[451] *See* Regulation NMS Proposing Release, *supra* note 450, at 11177; Regulation NMS Adopting Release, *supra* note 10, at 37559.

[452] *Id.*

[453] *See* Regulation NMS Proposing Release, *supra* note 450, at 11178.

[454] *Id.* The Commission stated that it would have to review every SRO's market data fees and get involved in multiple market data fee disputes.

[455] *See supra* notes 449–450.

[456] *See supra* note 449. *See infra* text accompanying notes 503–509, 513–515 for a discussion of the risks. The Advisory Committee on Market Information report stated that these risks would be manageable and recommended allowing the private sector to establish technical standards for competing consolidators rather than the Commission. *See supra* note 449, at Section VII.C.2.b(iv).

[457] *See supra* note 449, at Section VII.C.2.b.

[458] The Commission stated that the four types of data quality problems identified by the Advisory Committee could be limited in severity, but remained concerned that the introduction of competing consolidators would compromise data quality. *See* Regulation NMS Proposing Release, *supra* note 450, at 11178.

[459] *See* Regulation NMS Proposing Release, *supra* note 450, at 11178. In the Regulation NMS Adopting Release, the Commission questioned the extent to which market data fees, which would be charged per SRO, would be subject to competition. *See* Regulation NMS Adopting Release, *supra* note 10, at 37559.

[460] *Id.* While the Commission did not propose a competing consolidator model, it received comments on the model described in the Regulation NMS Proposing Release.

[461] *Id.*

[462] *Id.*

(b) Comments and Roundtable Discussion

The current market data infrastructure, with the Equity Data Plans providing SIP data and the exchanges providing proprietary data products, has led some market participants to suggest that a competing consolidator model be considered again as a means to address the latency and cost differentials that exist between the two data categories.[463]

Several panelists and commenters at the Roundtable discussed a competing consolidator model. One panelist presented a competing consolidator model and noted that it would introduce competition in the provision of market data by allowing competing consolidators to compete against each other for subscribers.[464] This panelist also stated that market forces would drive consolidators' ''micro-decisions'' regarding the technology that they would use to provide data.[465] The panelist also suggested that competing consolidators should be ''authorized'' and be Regulation SCI-compliant.[466] The panelist expressed confidence that a competitive market would produce a more reliable solution than the current centralized consolidation model.[467]

One panelist explained that the exclusive SIPs represent a single point of failure for the equity markets and that competing consolidators could improve the speed and quality of SIP data while also reducing their costs.[468] Another panelist said that his clients have expressed interest in competitive SIPs.[469] One panelist suggested a competing consolidator model wherein entities would consolidate messages from individual exchange members. The panelist acknowledged that this approach would likely result in latency issues, but suggested that such a consolidated feed could possibly be leveraged from work being done on reporting to the consolidated audit trail.[470]

Several comment letters submitted in connection with the Roundtable expressed support for a competing consolidator model.[471] One commenter stressed the importance to investors of competition by stating that competition would result in the reduction of the latency differential between the exclusive SIPs and proprietary data feeds, resilience through the use of multiple consolidators, and lower market data costs.[472] Another commenter stated that competing consolidators would compete on ''speed, reliability, and price to the benefit of traders and investors alike'' [473] and that competing consolidators would provide ''the benefit of expanded access to high-quality, low-cost market data.'' [474] Another commenter noted the Treasury Report, which was published in 2017,[475] recommended that the Commission recognize that markets for SIP data and proprietary data feeds are not fully competitive and consider amending Regulation NMS to enable competing consolidators as an alternative to the exclusive SIPs.[476] This commenter recommended that if competing consolidators are permitted, regulators should examine why a broker-dealer chooses a particular consolidator over others and should monitor how much exchanges decide to charge consolidators for market data.[477]

Several commenters suggested details on the types of entities that could be competing consolidators and the functions they could perform.[478] For example, one commenter suggested that a competing consolidator could be any commercial entity meeting minimum standards, which may include exchanges or other financial technology vendors,[479] and another suggested that they could be private companies that, unlike the existing exclusive SIPs, could operate in any location and would obtain and sell data comparable to proprietary data feeds.[480] One commenter suggested a list of functionality that competing consolidators could provide, such as direct exchange feed data from all tapes, quote and trade feeds, regulatory messages, and the market status of all contributing markets.[481]

Several panelists, in particular representatives of exchanges operating the current exclusive SIPs, expressed concern with a competing consolidator model. One panelist suggested that the interest in competing consolidators arises from a perception that competing consolidators will make market data less costly.[482] The panelist said that the cost to produce market data is not a competing consolidator's cost and that this realization may make such a model less attractive to potential users of competing consolidators.[483] Another panelist said that a competing consolidator model could result in multiple NBBOs prevailing at the same nanosecond, which would provide a broker with a choice regarding the price at which it filled a customer's order.[484] The panelist believed that this discretion in choosing an NBBO could result in uncertainty regarding whether the broker had executed a customer's order at a price that was in the customer's interest or the broker's own interest.[485] One panelist stated that there is value in understanding what the NBBO is when there are competing SIPs and asked whether this model would introduce benchmark reference price arbitrage.[486] The panelist suggested that

[463] The Treasury Capital Markets Report (''Treasury Report''), which was published one year prior to the Roundtable and referenced by Roundtable respondents, recommended that the Commission amend Regulation NMS to permit competing consolidators as alternatives to the exclusive SIPs as a means to provide faster consolidation and distribution of a wider breadth of market data, at a lower cost than provided by the exclusive SIPs. The Treasury Report suggested that competing consolidators be allowed to purchase proprietary data feeds from exchanges on a non-discriminatory basis. *See* U.S. Department of the Treasury, A Financial System that Creates Economic Opportunities—Capital Markets, 64 (Oct. 2, 2017). Other alternatives to the current centralized consolidation model are discussed below. *See infra* Section IV.C.

[464] *See* Roundtable Day Two Transcript at 25 (Paul O'Donnell, Morgan Stanley).

[465] *Id.* at 26.

[466] *Id.* at 25.

[467] *Id.*

[468] *See* Roundtable Day One Transcript at 49–50 (Prof. Hal Scott, Harvard University). This panelist also suggested that the SIPs should include proprietary data and also permit competing consolidators to do the same.

[469] *See* Roundtable Day Two Transcript at 43 (Jarred Yuster, PICO).

[470] *See* Roundtable Day One Transcript at 182–184 (Michael Friedman, Trillium Trading).

[471] *See* T. Rowe Price Letter, Letter to Brent J. Fields, Secretary, Commission, from Marcy Pike, SVP, Enterprise Infrastructure, and Krista Ryan, VP, Associate General Counsel, Fidelity Investments (Oct. 26, 2018) (''Fidelity Letter''); SIFMA Letter; SIFMA Letter II; Ramsay Letter II.

[472] *See* SIFMA Letter II at 3. In addition to the use of competing consolidators, this commenter suggested that the Commission require the exclusive SIPs to compete with each other. *See also* T. Rowe Price Letter at 3. This commenter believed that competition among organizations eligible to serve as exclusive SIPs, either through a periodic bidding process or the ability of multiple firms to simultaneously serve as exclusive SIPs and compete to provide the best overall combination of fees, services, and reliability would be beneficial.

[473] *See* Ramsay Letter II; Fidelity Letter at 10 (noting that competition may reduce the cost of consolidated market data).

[474] *See* Ramsay Letter II.

[475] *See supra* note 463.

[476] *See* Fidelity Letter at 10.

[477] *Id.*

[478] *See* SIFMA Letter; Ramsay Letter II.

[479] *See* SIFMA Letter.

[480] *See* Ramsay Letter II.

[481] *See* SIFMA Letter (attachment to the letter). This commenter also stated that depth of book should be considered but stated that it should possibly be sold separately.

[482] *See* Roundtable Day Two Transcript at 46–47 (Michael Blaugrund, NYSE).

[483] *Id.*

[484] *See* Roundtable Day Two Transcript at 61 (Prof. Robert Bartlett, U.C. Berkeley).

[485] *Id.*

[486] *See* Roundtable Day One Transcript at 151–152 (Oliver Albers, Nasdaq); Bartlett and McCrary, *supra* note 418 (examining the incidence of exclusive SIP latency arbitrage strategies using

Continued

a conflict could arise if a broker-dealer executes customer orders and also manages the price against which such trades are benchmarked, *i.e.,* by calculating the NBBO.[487]

Several comment letters expressed skepticism about the benefits of a competing consolidator model. One commenter said that making radical market structure changes could undermine the NBBO and that adding multiple competing SIPs would create operational, legal, and regulatory complexities as well as unintended consequences, and may not solve concerns about geographic latency.[488] Further, this commenter advocated that having a single source of best quote and trade data creates confidence in the U.S. markets because investors can be assured that orders will automatically route to the venue with the best quoted price on the exclusive SIP feed.[489]

One commenter said that competition would result in multiple NBBOs that would confuse the market. Further, the commenter stated that competition would not ''curb rent-seeking behaviors, nor promote fairness.'' [490] This commenter suggested that the Commission mandate a type of encryption instead of introducing competition, explaining that encrypting market data would allow proprietary and exclusive SIP feeds to be made available ''securely in synchronized time.'' [491]

Another commenter urged the Commission to do a cost benefit analysis of efforts to decentralize the exclusive SIP architecture and recommended introducing additional instances of existing technology (*i.e.,* a distributed SIP model) as the best approach to reducing geographic latency.[492] This commenter added that a competing consolidator approach would create complexity that would undermine the purposes of Regulation NMS to keep costs low for investors.[493]

Finally, one commenter opined that competing SIPs would not solve the problem of the exchanges' control over market data access.[494] This commenter asked why a technology firm would become a competing SIP when it cannot control the cost of the market data it must purchase.[495]

(c) Commission Discussion

The Commission is proposing a decentralized consolidation model with competing consolidators and self-aggregators who would collect data from the SROs, and calculate, consolidate, and disseminate proposed consolidated market data to investors and market participants.[496] As discussed below, the Commission preliminarily believes that competing consolidators should be required to disclose publicly certain information about their organization, operations, and products, as well as regularly publish certain performance statistics on, for example, capacity, system availability, and latency to demonstrate their operational capability and to provide transparency into the performance of their systems.[497] In addition, the Commission preliminarily believes that competing consolidators should have written policies and procedures to assure the prompt, accurate, and reliable delivery of consolidated market data.

The Commission preliminarily believes that the competing consolidator proposal would reduce latency, bolster the resilience of the market data infrastructure, and permit the market data infrastructure to more readily adapt to changes in technology to better fit the needs of market participants. The Commission also preliminarily believes that market forces could help to ensure that the proposed consolidated market data is reliable, accurate, and prompt. To attract and maintain its subscriber base, a competing consolidator would have to ensure that it provides consolidated market data, as proposed, with minimal latency, but also reliably and accurately, and in a cost-effective manner. A competing consolidator that does not adequately perform would risk losing customers to another competing consolidator. Competition should also incentivize competing consolidators to evolve and adapt to the needs of the marketplace. If a new technology would result in better provision of data, a competing consolidator likely would adopt that technology to expand its client base. Finally, the introduction of multiple competing consolidators may bring additional resilience to the collection, consolidation, and distribution of consolidated market data, as there would be redundant systems performing these functions rather than one exclusive SIP creating a single point of failure.[498]

In proposing this competing consolidator model, the Commission considered the concerns it described when it previously evaluated a different competing consolidator model in connection with the adoption of Regulation NMS.[499] The Commission preliminarily believes that the proposed competing consolidator model should not raise the same concerns due to the differences between the two models and the manner in which market participants handle market data today.

First, to address the Commission's prior concern about a lack of data uniformity resulting from the use of multiple competing consolidators,[500] the Commission is proposing requirements governing how consolidated market data is collected, calculated, generated, and made available.[501] The Commission acknowledges that the introduction of multiple entities generating consolidated market data would result in multiple versions of consolidated market data. However, market participants currently consolidate proprietary data feeds, generate their own consolidated data, and calculate their own NBBO.[502] The proposal

timestamp data from the two SIPs and concluding that trading surrounding exclusive SIP priced trades showed little evidence that fast traders initiate liquidity taking orders to pick off stale quotes).

[487] *See* Roundtable Day One Transcript at 151–152 (Oliver Albers, Nasdaq).

[488] *See* Wittman Letter at 14; Letter to Brent J. Fields, Secretary, Commission, from Oliver Albers, SVP, Head of Global Partnerships, Nasdaq, 3 (Oct. 24, 2018) (''Albers Letter''); Blaugrund Letter at 2. The Wittman and Albers Letters were submitted on behalf of Nasdaq. The Blaugrund Letter was submitted on behalf of NYSE.

[489] *See* Albers Letter at 3.

[490] *See* Data Boiler Letter at 4. This commenter also suggested that the Commission amend interpretations of Rule 603(a) of Regulation NMS to emphasize ''synchronized availability of data between SIP and exchanges' proprietary products.'' *Id.* at 8.

[491] *Id.* at 2, 8.

[492] *See* NYSE Group Letter at 6; Blaugrund Letter at 4. The Blaugrund Letter was submitted on behalf of NYSE.

[493] *See* Blaugrund Letter at 2.

[494] *See* Healthy Markets Association Letter I at 38.

[495] *Id.*

[496] *See infra* Section IV.B.2(e)(ii) for a discussion of proposed Rule 614, which would require competing consolidators that are SIPs to register with the Commission and comply with specified responsibilities.

[497] One Roundtable respondent supported publication of operational capabilities and performance metrics by competing consolidators. *See* SIFMA Letter (attachment to letter).

[498] The single point of failure problem was most recently evidenced on August 12, 2019, when the CTA/CQ SIP experienced multiple system issues and was unable to effectively fail over to its backup system. Among other impacts, final closing prices for many symbols were not able to be published by the CTA until after 8:00 p.m. *See* CTA, CTA Processing Issue on August 12, 2019: CTA Participant Trade Files—Revised Notice, Alert (Aug. 28, 2019), *available at https://www.ctaplan.com/alerts#110000144324.* Several Roundtable respondents noted the additional reliability through the redundancy that multiple consolidators would provide. *See* Roundtable Day One Transcript at 49–50 (Prof. Hal Scott, Harvard University); Roundtable Day Two Transcript at 77 (Paul O'Donnell, Morgan Stanley); Ramsay Letter II.

[499] *See supra* notes 453–454.

[500] *See supra* note 453.

[501] *See* proposed Rules 614(d)(1)–(3).

[502] *See* Roundtable Day One Transcript at 128 (Mark Skalabrin, Redline Trading Solutions) (explaining that his firm builds an NBBO for its customers that use proprietary data feeds), at 141 (''[E]ffectively today, people have to form the NBBO

would require competing consolidators and self-aggregators to calculate consolidated market data, including the NBBO, in a consistent manner as set forth in the proposed definitions in Rule 600 of Regulation NMS, which the Commission preliminarily believes would help ensure continuity and consistency in how proposed consolidated market data, including the NBBO, is calculated.

Further, on the Advisory Committee on Market Information's validation tolerance concerns from 2001,[503] the report had stated that standards should be created to ensure the consistency of information, such as the NBBO and market center message formatting.[504] The report also stated that differences in the protocols and formats used by competing consolidators could make the market data system cumbersome or prone to error.[505] As noted above, the proposal would require competing consolidators and self-aggregators to calculate consolidated market data, including the NBBO, in a consistent manner in accordance with the proposed definitions in Rule 600 of Regulation NMS. Further, the Commission preliminarily believes that competing consolidators would likely establish their own standards for verifying information for consistency because they would be the entities responsible, pursuant to proposed Rule 614(d)(2), for calculating and generating consolidated market data based on this information.[506] In addition, as the entities responsible for generating consolidated market data, competing consolidators would likely be incentivized by competition to disseminate data using a protocol or format that results in data that is readily usable by their subscribers. As market participants are currently able to ingest market data from different sources, such as the exclusive SIPs and proprietary data feeds, the Commission preliminarily believes that differences in the protocols or formats used by competing consolidators would not likely introduce a new challenge to the market. Rather than impose technical standards, the Commission preliminarily believes that competing consolidators would be in the best position to develop standards with respect to data consistency and generation, as appropriate, because they would be directly responsible for the quality of their product that is in compliance with Rule 614(d)(2), and would be incentivized through competition to create standards to ensure the integrity of their consolidated market data.

With respect to the Advisory Committee on Market Information's previous concerns about capacity,[507] the Commission is proposing to require each competing consolidator to publish on its website its capacity statistics on a monthly basis so that market participants can evaluate whether a competing consolidator has sufficient capacity to process information.[508] The Commission is also proposing to require each competing consolidator to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems have levels of capacity to maintain operational capability and assure the prompt, accurate, and reliable delivery of consolidated market data.[509]

The Commission was previously concerned about an increase in processing costs due to multiple consolidators[510] performing the tasks performed by an exclusive SIP. As noted above, the Commission preliminarily believes that the introduction of competition should help to ensure that proposed consolidated market data is disseminated in a cost-effective manner.[511]

Finally, the Commission was previously concerned about the risk that fees for core data would increase because payment to each SRO would be mandatory. The previous competing consolidator model would have eliminated the Equity Data Plans and contemplated that each individual exchange would have developed its own pricing scheme for its individual data. As discussed below, in contrast, under the proposed decentralized consolidation model, the SROs would continue to develop jointly the fees associated with the provision of the proposed consolidated market data through an effective national market system plan(s) for NMS stocks.[512] These fees would be subject to Commission oversight under Rule 608.

The use of competing consolidators may introduce sequencing risk, a concern raised by the Advisory Committee on Market Information[513] as well as the Commission when it dismissed a competing consolidator model in proposing Regulation NMS.[514] Having multiple competing consolidators using different technology could result in messages being processed in different sequences. The outcome would be the loss of a single reference for consolidated market data, which could negatively impact the reconstruction of the markets at a given point in time. However, the Commission believes that the proposal would mitigate the effects of sequencing risk by mandating that the effective national market system plan(s) require the application of timestamps to all consolidated market data by the SROs when they send market data to competing consolidators as well as requiring competing consolidators to apply timestamps to consolidated market data. Accordingly, no matter the differences in message processing across the competing consolidators, the sequencing of market data based on SRO timestamps should be able to be reconstructed.[515]

The Commission believes that there are a number of existing firms that

at their own location. Even a dark pool does that that's just trying to match at the best bid and offer. If they use the SIP NBBO, their customers would be subject to latency harm, because it's too old to use at their location after it's merged to really get effective performance.''). Although the Commission does not know the exact number of market participants that currently consolidate proprietary data feeds, generate their own consolidated data, and calculate their own NBBO, Nasdaq has stated that approximately 100 firms purchase all depth of book data from every exchange. *See In the Matter of the Application of SIFMA, supra* note 37, at 29 (citing an assertion from Nasdaq that 100 firms purchase all depth of book data from every exchange). The Commission acknowledges that not all of these market participants consolidate the proprietary data feeds and solicits comment on the number of market participants that do.

[503] *See supra* text accompanying notes 455–457.

[504] *Id.*

[505] *Id.*

[506] *See* proposed Rule 614(d)(2).

[507] *See supra* text accompanying notes 455–457.

[508] *See infra* Section IV.B.2(e)(ii).

[509] *Id.*

[510] The Commission preliminarily estimates that there could be up to twelve competing consolidators. This estimate includes the CTA/CQ SIP and the Nasdaq UTP SIP. *See infra* Section V.C.

[511] *See also, e.g.,* Roundtable Day One Transcript at 49–50 (Prof. Hal Scott, Harvard University) (''[C]ompetition among consolidators of SIP data . . . could improve the speed and quality of consolidated sources of market data while also reducing their costs.''); Treasury Report, *supra* note 463, at 64 (''The competing consolidators would aim to provide faster consolidation and distribution, improved breadth of data, and lower cost than the SIPs.'').

[512] *See infra* Section IV.B.4; Proposed Governance Order, *supra* note 8; Effective on Filing Proposal, *supra* note 37 (a proposal to amend Regulation NMS to rescind a provision that allows a proposed amendment to an effective national market system plan(s) to become effective upon filing if the proposed amendment establishes or changes a fee or other charge).

[513] *See supra* text accompanying notes 455–457.

[514] *See* Regulation NMS Proposing Release, *supra* note 450, at 11178.

[515] The Commission further notes that the NBBOs currently calculated by the exclusive SIPs at different data centers may vary due to geographic and other forms of latency, and therefore, the proposed competing consolidator model does not introduce a new issue in this regard. However, under the proposed competing consolidator model, NBBOs created at other data centers where the exclusive SIPs currently do not have a point of presence (*e.g.,* NY4 in Secaucus) could be more accurate for those market participants that are located in such data center.

would be well-positioned to become competing consolidators. First, trading technology firms that today provide proprietary data aggregation services for their subscribers may decide to register as competing consolidators in order to potentially expand their subscriber base and to be eligible for the pricing for data content used to create proposed consolidated market data.[516] In addition, the existing exclusive SIPs, CTA/CQ and Nasdaq UTP, could consider becoming competing consolidators, as they have extensive experience in this area and may choose to remain in the market data consolidation business. Similarly, SROs have experience collecting and processing market data and may wish to act as competing consolidators. The Commission preliminarily believes that the creation of a competing consolidator market would open up the potential for other entrants, as well. For example, various market participants that are currently self-aggregating and have the technology to consolidate core data may decide to enter the competing consolidator business given the potential market opportunity. Finally, other entities have been interested in performing as plan processors. For example, there were competing bids to be the Nasdaq UTP SIP in 2014,[517] and in 2013 and 2019 for OPRA. The bidding firms (or similar types of firms) may decide to enter the market as competing consolidators.

The Commission preliminarily believes that sufficient incentives exist to attract a number of entities to register as competing consolidators and for a competitive market to develop. For one thing, the proposed definition of core data will incorporate additional elements such as quotation data in smaller size increments, depth of book data, and auction information, all of which market participants have recommended as necessary or useful. Therefore, there seems to be demand for the key product—*i.e.,* consolidated market data as proposed—that competing consolidators will be producing and selling. Moreover, the proposed competing consolidator registration regime and responsibilities outlined below—while designed to collect relevant information about competing consolidators and to require competing consolidator performance data, data quality issues, and system issues to be made publicly available—are intended to be a relatively streamlined process that would impose appropriate burdens on entities likely to register as competing consolidators.

Several Roundtable panelists and commenters raised potential issues about a competing consolidator model, in particular, about uncertainties regarding control over market data access, the costs of obtaining market data from the various SROs, and operational complexities associated with the model, such as the introduction of multiple NBBOs.[518] However, the Commission preliminarily believes that some of these issues would be addressed by the proposal and the others would not be novel or insurmountable. On control over market data access, Rule 603 and the proposed amendments to Rule 603(b) would require that the SROs directly make available to competing consolidators and self-aggregators NMS information, including all data necessary to generate consolidated market data, on terms that are fair and reasonable and not unreasonably discriminatory. With respect to the costs of market data, the SRO fees associated with consolidated market data would be subject to Equity Data Plan requirements and the fees must be fair and reasonable.[519] Finally, with respect to the concerns regarding the complexities associated with a competing consolidator model, many of the functions of competing consolidators are performed today by market participants, such as the consolidation of proprietary data feeds and calculation of NBBOs.[520]

Finally, a Roundtable panelist suggested that multiple NBBOs could raise concerns about broker-dealers executing customer orders at prices that are in the broker's own interest, rather than the customers' interest, and questioned whether a competing consolidator model would introduce benchmark reference price arbitrage.[521] A broker-dealer must provide best execution to its customers' orders.[522] However, the existence of multiple NBBOs, which occurs today, does not impact a broker's best execution obligations. Further, the panelist questioned whether there would be conflicts for broker-dealers that execute customer trades as well as manage the price against which the trades are benchmarked (*i.e.,* by calculating the NBBO). Broker-dealers today purchase market data from the SIP as well as proprietary data feeds and calculate NBBOs. Accordingly, the Commission is not persuaded by concerns about the introduction of multiple NBBOs because multiple NBBOs already exist.

(d) Proposed Definition of Competing Consolidator in Rule 600(b)

The Commission is proposing to introduce a definition of competing consolidator in Rule 600(b). Specifically, under proposed Rule 600(b)(16) of Regulation NMS, a competing consolidator would be defined as a securities information processor required to be registered pursuant to Rule 614 or a national securities exchange or national securities association that receives information with respect to quotations for and transactions in NMS stocks and generates consolidated market data for dissemination to any person.

The Commission requests comment on the proposed amendment to Rule 600(b) to introduce a definition of ''competing consolidator.'' In particular, the Commission solicits comment on the following:

73. Is a decentralized consolidation model with competing consolidators and self-aggregators a viable and/or appropriate model for the collection, consolidation, and dissemination of consolidated market data? Are there any other viable and/or appropriate alternatives?

74. Do commenters believe that the definition of competing consolidator accurately captures the requisite functions necessary for collecting, consolidating, and disseminating consolidated market data? Do commenters believe that there would be sufficient interest in entities that would become competing consolidators?

75. Do commenters believe that competing consolidators would provide the necessary competition to lower the processing time and distribution speeds

[516] The Commission does not know the number of aggregators in operation today, but assumes that certain market data vendors in the following list currently perform that function. *See* Nasdaq: Market Data Vendors, *available at http://www.nasdaqtrader.com/Trader.aspx?id=MarketDataVendorsList&StartAlphabet=A&EndAlphabet=ZZZ* (last accessed Dec. 17, 2019).

[517] Bidders included Nasdaq, Thesys Technologies LLC, CenturyLink, and a unit of exchange operator Miami International Holdings Inc. *See* Herbert Lash, Nasdaq Wins Bid to Manage Key Data Processor for Stock Trading, Reuters (Nov. 5, 2014), *available at https://www.reuters.com/article/us-exchanges-stocktrading-nasdaq-omx-id USKBN0IQ00220141106.*

[518] *See* Roundtable Day One Transcript at 151–152 (Oliver Albers, Nasdaq); Roundtable Day Two Transcript at 46–47 (Michael Blaugrund, NYSE), at 61 (Prof. Robert Bartlett, U.C. Berkeley); Wittman Letter at 14; Albers Letter at 3; Blaugrund Letter, at 2; Healthy Markets Association Letter I, at 38; Data Boiler Letter at 4, 8.

[519] *See supra* note 439.

[520] For example, multiple NBBOs exist today because many broker-dealers independently calculate it for themselves.

[521] *See* Roundtable Day One Transcript at 151–152 (Oliver Albers, Nasdaq); Roundtable Day Two Transcript at 61 (Prof. Robert Bartlett, U.C. Berkeley); Data Boiler Letter at 4.

[522] *See supra* note 308.

for consolidated market data, as proposed to be defined, as well as reduce the overall costs of proposed consolidated market data?

76. Do commenters believe that concerns identified by the Commission regarding the competing consolidator model considered in the Regulation NMS Proposing and Adopting Releases would be sufficiently addressed with the proposed decentralized consolidation model with competing consolidators and self-aggregators proposed in this release? If not, how should these concerns be addressed?

77. Will the change to a proposed competing consolidator/self-aggregator model present any specific operational and/or regulatory challenges to market participants? Are the challenges evenly distributed amongst market participants or would one set of market participants bear more of any burden? If so, please describe.

78. The Commission solicits commenters' views regarding the various concerns raised by Roundtable respondents about the competing consolidator model. In particular, do commenters have any concerns about competing consolidators calculating independent NBBOs? Please explain. Do commenters have concerns about multiple versions of consolidated market data, as proposed? Please explain. If there are such concerns, please also explain how these concerns would vary from the multiple different forms of aggregation that exist today among broker-dealers either self-aggregating proprietary data feeds or utilizing vendors to do so on their behalf.

(e) Proposed Rule 614

The Commission preliminarily believes that SIPs that wish to act as competing consolidators should be required to register with the Commission [523] and be required to publicly disclose certain information about their organization, operations, and products. The proposed disclosure framework is similar to the disclosures currently required under Form SIP, with differences tailored to the proposed regulatory structure that would apply to competing consolidators. As described more fully below, a competing consolidator would be required to register with the Commission on proposed Form CC and to amend its Form CC (i) prior to the implementation of a material change to the competing consolidator's pricing, connectivity, or products offered (a ''Material Amendment''); and (ii) no later than 30 calendar days after the end of each calendar year to correct information that has become inaccurate or incomplete for any reason and to provide an Annual Report as required under Form CC (each a ''Form CC Amendment'').[524] A competing consolidator would be required to publish notice of its cessation of operations on Form CC at least 30 business days prior to the date it ceases to operate as a competing consolidator.[525] The Commission would make public on its website each effective initial Form CC, order of ineffective initial Form CC, Form CC Amendment, and notice of cessation.[526]

The Commission also preliminarily believes that competing consolidators should be subject to certain obligations and should regularly publish certain performance statistics on a monthly basis on their respective websites pursuant to proposed Rules 614(d)(5) and (6).[527] These disclosures are similar to disclosures currently made by the exclusive SIPs.

These requirements, together with the operational transparency proposed in new Form CC for those SIPs that register as competing consolidators,[528] should help to ensure that consolidated market data, as proposed to be defined, is provided in a prompt, accurate, and reliable manner and that all competing consolidators disclose the same information to allow for easier comparison and evaluation. Specifically, these requirements should allow market participants to effectively evaluate competing consolidators and foster competition among competing consolidators, which should result in high levels of performance in the provision of proposed consolidated market data. In addition, these requirements should facilitate Commission oversight of competing consolidators and help to ensure the resiliency of their systems.

(i) Section 11A(b) of the Exchange Act

Section 11A(b)(1) of the Exchange Act [529] provides that a SIP not acting as the ''exclusive processor'' [530] of any information with respect to quotations for or transactions in securities is exempt from the requirement to register with the Commission as a SIP unless the Commission, by rule or order, determines that the registration of such SIP ''is necessary or appropriate in the public interest, for the protection of investors, or for the achievement of the purposes of [Section 11A].'' A SIP that proposes to act as a competing consolidator would not engage on an exclusive basis on behalf of any national securities exchange or registered securities association in collecting, processing, or preparing for distribution or publication any information with respect to quotations for or transactions in securities; therefore, such a proposed competing consolidator would not fall under the statutory definition of ''exclusive processor.'' However, under the proposed rules, competing consolidators would play a vital role in the national market system by collecting, consolidating, and disseminating proposed consolidated market data. Because the availability of prompt, accurate, and reliable consolidated market data, as proposed, is essential to investors and other market participants, the Commission preliminarily believes that it is necessary and appropriate in the public interest and for the protection of investors to require each SIP that wishes to act as a competing consolidator to register with the Commission as a SIP pursuant to proposed Rule 614. Section 11A(b)(1) provides the Commission with authority to require the registration of a SIP not acting as an exclusive processor by rule or order. The Commission is exercising this authority by proposing Rule 614 to establish the process by which SIPs that wish to act as competing consolidators would be required to register with the Commission.

The registration process for exclusive SIPs under Section 11A requires the Commission to publish notice of an exclusive SIP's application for registration and, within 90 days of publication of notice of the application,

[523] As explained further below, SROs are excluded from the definition of SIP under Section 3(a)(22)(A) of the Exchange Act. 15 U.S.C. 78c(a)(22)(A). SROs that wish to act as competing consolidators would therefore not be required to register with the Commission on proposed Form CC, which, as explained below, is the form that SIPs would use to register as competing consolidators. *See infra* Section IV.B.2(e)(iii). However, SROs that wish to act as competing consolidators would be subject to the other requirements of proposed Rule 614, including the responsibilities of competing consolidators enumerated in proposed Rule 614(d), such as the monthly publication of performance metrics. *See infra* Section IV.B.2(e)(ii).

[524] *See* proposed Rules 614(a)(1)(i) and (a)(2)(i) and (ii).

[525] *See* proposed Rule 614(a)(3).

[526] *See* proposed Rule 614(b)(2). The Commission would publish an effective initial Form CC upon effectiveness and would publish a Form CC Amendment no later than 30 calendar days from the date of filing. *See* proposed Rule 614(b)(2)(iii).

[527] *See infra* Section IV.B.2(e)(ii) for a discussion of the obligations and performance statistics. The information that the Commission is proposing that competing consolidators publish is based upon information that is currently collected or produced by the CTA/CQ SIP and the Nasdaq UTP SIP, either for public or internal distribution.

[528] *See infra* Section IV.B.2(e)(iii) for a discussion of proposed Form CC.

[529] 15 U.S.C. 78k–1(b)(1).

[530] *See supra* note 20.

by order grant the application or institute proceedings to determine whether the registration should be denied.[531] At the conclusion of the proceedings, the Commission must, by order, grant or deny the registration.[532] Section 11A(b)(1) of the Exchange Act also authorizes the Commission, by rule or by order, upon its own motion or by application, to conditionally or unconditionally exempt any SIP or class of SIPs from any provision of Section 11A or the rules or regulations thereunder if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of Section 11A, including the maintenance of fair and orderly markets in securities and the removal of impediments to and perfection of the mechanisms of a national market system. The Commission preliminarily believes that it is consistent with the public interest, the protection of investors, and the purposes of Section 11A to use its authority under Section 11A(b)(1) to exempt SIPs that wish to act as competing consolidators from the registration process established in Section 11A(b)(3) of the Exchange Act and to allow such competing consolidators to register pursuant to a process that is more streamlined and limited than the process described in Section 11A(b)(3). The process specified in Section 11A(b)(3) of the Exchange Act was developed for exclusive SIPs and reflects the heightened need to review and analyze exclusive processors. In contrast, SIPs that do not act as an exclusive SIP are exempt from registration unless the Commission ''finds that the registration of such securities information processor is necessary or appropriate in the public interest, for the protection of investors, or for the achievement of the purposes of [Section 11A].'' The Commission preliminarily believes that the proposed registration process would provide the Commission with the information necessary to oversee competing consolidators and help ensure that relevant information regarding such competing consolidators is available to the Commission and to the public, while providing a streamlined registration process designed to encourage entities to register as competing consolidators.

The registration process proposed in new Rule 614 requires any person, other than an SRO,[533] that chooses to become a competing consolidator to file with the Commission proposed Form CC.[534] The Commission would review the initial Form CC and such filing would become effective, unless declared ineffective by the Commission by order.[535] The Commission would make public on its website each effective initial Form CC and any order of ineffective initial Form CC, amendment to Form CC and notice of cessation, if applicable. The registration process proposed in new Rule 614 would not require the publication for notice and comment of an application for registration as a competing consolidator, nor would it require Commission approval of such an application. However, the Commission preliminarily believes that it is consistent with the public interest, the protection of investors, and the purposes of Section 11A to establish a relatively streamlined registration process based on disclosure for those SIPs that wish to act as competing consolidators. The Commission preliminarily believes that a relatively streamlined registration process would impose minimal burdens on entities likely to register as competing consolidators.

In addition, the Commission preliminarily believes that it is consistent with the public interest, the protection of investors, and the purposes of Section 11A to use its exemptive authority under Section 11A(b)(1) of the Exchange Act to exempt those SIPs that act as competing consolidators from Section 11A(b)(5) of the Exchange Act,[536] which requires a registered SIP to notify the Commission if the SIP prohibits or limits any person with respect to access to its services. Section 11A(b)(5) allows any person aggrieved by a prohibition or limitation of such access to the SIP's services to petition the Commission to review the prohibition or limitation of access. Exclusive SIPs, by definition, engage on an exclusive basis in collecting, processing, or preparing data. In contrast, the proposed competing consolidators would not engage in collecting, processing, or preparing data on an exclusive basis. Therefore, the Commission preliminarily believes that the protections of Section 11A(b)(5) of the Exchange Act, including the ability of an aggrieved person to petition the Commission for review of a SIP's prohibition or limitation of access to the SIP's services, are not necessary for the SIPs that register as competing consolidators. The Commission preliminarily believes that competitive forces would reduce the likelihood that a subscriber would not be able to access consolidated market data as proposed because a subscriber should be able to obtain such data from another competing consolidator. Accordingly, the Commission preliminarily believes that it would be consistent with the protection of investors and the public interest to exempt competing consolidators from Section 11A(b)(5) of the Exchange Act.

The Commission requests comment on the proposal to establish a registration process for SIPs that wish to act as competing consolidators and to exempt such competing consolidators from Section 11A(b)(5) of the Exchange Act. In particular, the Commission solicits comment on the following:

79. Do commenters agree that the SIPs that wish to act as proposed competing consolidators should be required to register with the Commission? Do commenters agree that such competing consolidators should be subject to the proposed registration requirements in proposed Rule 614, rather than the registration requirements set forth in Section 11A(b) of the Exchange Act? Why or why not?

80. Do commenters believe that the Commission should establish a registration process for competing consolidators different from the registration process in proposed Rule 614? If so, please describe. Should competing consolidator registration be subject to Commission approval and/or additional or different regulation? Why or why not? If so, please describe.

81. Do commenters believe that competition and market forces would be sufficient to support the proposed registration regime for SIPs that wish to act as competing consolidators? Why or why not?

82. Do commenters agree that the Commission should exempt SIPs that register as competing consolidators from Section 11A(b)(5) of the Exchange Act? Why or why not?

83. Do commenters believe that competition and market forces are

[531] *See* Section 11A(b)(3), 15 U.S.C. 78k–1(b)(3).

[532] *See* Section 11A(b)(3)(B), 15 U.S.C. 78k–1(b)(3)(B).

[533] *See supra* note 523.

[534] *See infra* Sections IV.B.2(e)(ii) and IV.B.2(e)(iii) for a discussion of the registration process for competing consolidators under proposed Rule 614.

[535] Proposed Rule 614(a)(1)(iii) provides that the Commission may, by order, declare an initial Form CC ineffective no later than 90 calendar days from the date of filing with the Commission.

[536] Section 11A(b)(5) of the Exchange Act, 15 U.S.C. 78k–1(b)(5), requires a SIP promptly to notify the Commission if the registered SIP prohibits or limits any person in respect of access to services offered, directly or indirectly, by the registered SIP. The notice must be in the form and contain the information required by the Commission. Any prohibition or limitation on access to services with respect to which a registered SIP is required to file notice is subject to review by the Commission on its own motion, or upon application by any person aggrieved by the prohibition or limitation.

sufficient to ensure that market participants would have access to consolidated market data as proposed? Why or why not?

(ii) Description of Proposed Rule 614

Proposed Rule 614(a)(1)(i) would prohibit any person, other than an SRO,[537] from (i) receiving directly from a national securities exchange or national securities association information with respect to quotations for and transactions in NMS stocks; and (ii) generating the proposed consolidated market data for dissemination to any person (*i.e.,* acting as a competing consolidator by disseminating data to external parties) unless that person files with the Commission an initial Form CC and the initial Form CC has become effective pursuant to proposed Rule 614(a)(1)(v).[538] The Commission preliminarily believes that a SIP that wishes to act as a competing consolidator should not be permitted to commence operations until the Commission has had the opportunity to review such competing consolidator's initial Form CC. The Commission's review of initial Form CC would help to ensure that a SIP that wishes to register as a competing consolidator makes disclosures that comply with the requirements of proposed Rule 614 and that a consistent level of information, and consistent disclosures, are made available to market participants to evaluate such competing consolidators.

Proposed Rule 614(a)(1)(ii) would require any reports required under new Rule 614 to be filed electronically on Form CC, include all of the information as prescribed in Form CC and the instructions to Form CC, and contain an electronic signature.[539] The electronic signature requirement is consistent with the intention of the Commission to receive documents that can be readily accessed and processed electronically.

The proposed rule contemplates the use of an online filing system through which competing consolidators would file a completed Form CC. The system, known as the electronic form filing system (''EFFS'') is currently used by SROs to submit Form 19b–4 filings and by SCI entities to submit Form SCI filings.[540] Other methods of electronic filing of Form CC could include the use of secure file transfer through specialized electronic mailbox or through the Electronic, Data Gathering, Analysis and Retrieval (''EDGAR'') system, or directly through *SEC.GOV* via a simple HTML form. Based on the widespread use and availability of the internet, the Commission believes that filing Form CC in an electronic format would be less burdensome and a more efficient filing process for competing consolidators and the Commission because it is likely to be less expensive and cumbersome than mailing and filing paper forms with the Commission.

In addition, proposed Rule 614(a)(1)(ii) would establish a uniform manner in which the Commission would receive, and competing consolidators would provide, reports made pursuant to proposed Rule 614. The standardization would make it easier and more efficient for the Commission to promptly review and analyze the information that competing consolidators provide.

Proposed Rule 614(a)(1)(iii) would provide that the Commission may, by order, declare an initial Form CC filed by a competing consolidator ineffective no later than 90 calendar days from filing with the Commission.[541] The Commission preliminarily believes that 90 calendar days would provide the Commission with adequate time to carry out its oversight functions with respect to its review of an initial Form CC, including its responsibilities to protect investors and maintain fair, orderly, and efficient markets.

Proposed Rule 614(a)(1)(iv) would require a competing consolidator to withdraw an initial Form CC that has not become effective if any information disclosed in the initial Form CC is or becomes inaccurate or incomplete. The competing consolidator would be able to refile an initial Form CC pursuant to proposed Rule 614(a)(1). The Commission preliminarily believes that it would be appropriate to require an initial Form CC to be withdrawn if any information in the form is or becomes inaccurate or incomplete to assure that the Commission's review is based on accurate and complete information and to assure that the Commission has adequate time to review an accurate and complete initial Form CC.

Proposed Rule 614(a)(1)(v)(A) would provide that an initial Form CC would become effective, unless declared ineffective, no later than the expiration of the review period provided in paragraph (a)(1)(iii) and upon publication of the initial Form CC pursuant to proposed Rule 614(b)(2)(i).

Proposed Rule 614(a)(1)(v)(B) would provide that the Commission would declare ineffective an initial Form CC if it finds, after notice and opportunity for hearing, that such action is necessary or appropriate in the public interest and is consistent with the protection of investors. The Commission also preliminarily believes that it would be necessary and appropriate in the public interest, and consistent with the protection of investors, to declare ineffective an initial Form CC if it finds, after notice and opportunity for hearing, that one or more disclosures reveal non-compliance with federal securities laws or the rules or regulations thereunder. The Commission also would make such a declaration if it finds, for example, that one or more disclosures on the initial Form CC were materially deficient with respect to their accuracy,

[537] As noted above, SROs are excluded from the definition of SIP in Section 3(a)(22)(A) of the Exchange Act and therefore would not be required to register as a competing consolidator pursuant to proposed Rules 614(a)–(c) and proposed Form CC. However, SROs are regulated entities, and an SRO competing consolidator would be required to provide information equivalent to that required by proposed Form CC. For example, national securities exchanges must file information about their control persons, officers, and directors, and affiliates on Form 1 that is similar to the disclosures required under Exhibits A–D of proposed Form CC. *See* Form 1 Instructions, at Exhibits C, J, and K, *available at https://www.sec.gov/files/form1.pdf* (last accessed Jan. 8, 2020). In addition, SRO competing consolidators would be required to file with the Commission all proposed rule changes pursuant to Section 19(b) of the Exchange Act and Rule 19b–4 thereunder to begin operations as a competing consolidator, including rule changes related to the SRO competing consolidator's operations, disclosures regarding consolidated market data products, and all fees related to consolidated market data products. The other requirements of proposed Rule 614—specifically, the responsibilities of competing consolidators enumerated in proposed Rule 614(d), as described below, including the monthly performance metrics and other information required under proposed Rules 614(d)(5) and (d)(6)—would apply to any competing consolidator, including any SRO that acts as a competing consolidator. An SRO, however, would have a choice of the manner in which—and the regulatory regime that would apply to—its competing consolidator business: An SRO could operate a competing consolidator as a facility of the SRO, which would be subject to the rule filing requirements of Section 19(b) of the Exchange Act and Rule 19b–4 thereunder, or the SRO could operate a competing consolidator in a separate affiliated entity, not as a facility, which, like other competing consolidators, would be subject to the proposed registration requirements under proposed Rule 614.

[538] In contrast, a self-aggregator would be defined as any broker-dealer that receives information with respect to quotations for and transactions in NMS stocks and generates consolidated market data solely for internal use, and therefore would not be a competing consolidator. *See infra* Section IV.B.3. If a self-aggregator disseminated consolidated market data to any person, it would be acting as a competing consolidator and would be required to register pursuant to proposed Rule 614 and comply with the requirements applicable to competing consolidators.

[539] This proposed requirement is consistent with electronic reporting standards set forth in other Commission rules under the Exchange Act, such as Rule 17a–25 (Electronic Submission of Securities Transaction Information by Exchange Members, Brokers, and Dealers). *See* 17 CFR 240.17a–25.

[540] *See* Securities Exchange Act Release No. 50486 (Oct. 4, 2004), 69 FR 60287 (Oct. 8, 2004) (adopting the EFFS for use in filing Form 19b–4).

[541] *See also* proposed Rule 614(a)(1)(iv)(B).

currency, or completeness. The Commission preliminarily believes that market participants would use the Form CC disclosure to understand and evaluate the operations of a competing consolidator and to help determine whether to subscribe to a competing consolidator. A disclosure on Form CC that is materially deficient with respect to its completeness or comprehensibility could mislead market participants or impede their ability to evaluate a competing consolidator. In addition, the Commission intends to use the information disclosed on an initial Form CC to exercise oversight over competing consolidators. Given these potential uses, the Commission believes that it is important that an initial Form CC contain disclosures that are accurate, current, and complete. During its review, the Commission and its staff may provide comments to the applicant and may request that the applicant supplement information in its initial Form CC or revise its disclosures on its initial Form CC.[542]

If the Commission declares an initial Form CC ineffective, the applicant would be prohibited from operating as a competing consolidator. An initial Form CC declared ineffective would not prevent the competing consolidator from subsequently filing a new Form CC that attempted to address any disclosure deficiencies or other issues that caused the initial Form CC to be declared ineffective.

The Commission requests comment on proposed Rule 614(a)(1), which establishes filing requirements for an initial Form CC and a Commission review period for determining whether a filed initial Form CC should be declared ineffective. In particular, the Commission solicits comment on the following:

84. Do commenters believe that the proposed electronic filing requirement is appropriate? Are there methods other than EFFS that would be appropriate? If so, please describe. Is EFFS an efficient system for filing proposed Form CC? Would another system be more efficient? If so, please specify and describe the rationale for using a different system.

85. Should the Commission adopt the proposal that an initial Form CC will become effective by operation of rule without the Commission issuing an order declaring effective the initial Form CC? Do commenters believe that publishing an initial Form CC on the Commission's website, without a Commission order declaring an initial Form CC effective, would provide sufficient notice that an initial Form CC has become effective? Why or why not? Please support your arguments.

86. Should the Commission require the existing exclusive SIPs to file an initial Form CC before they may become competing consolidators if they decide to act as competing consolidators? Why or why not? Please support your arguments.

87. Do commenters believe that the process to declare a Form CC ineffective is appropriate? Why or why not?

88. Do commenters believe that an SRO seeking to operate a competing consolidator would establish the competing consolidator within the SRO or in a separate affiliated entity? What do commenters believe would be the advantages and disadvantages of each form of operation? Do commenters believe that an SRO competing consolidator would have any advantages over a competing consolidator registered pursuant to proposed Rules 614(a)–(c) and proposed Form CC?

89. If an SRO decides to act as a competing consolidator, should it be required to file a specific notice of its intent to operate as a competing consolidator in addition to, or in lieu of, a Form 19b–4 with the Commission? Would a Form 19b–4 filing by itself provide sufficient notice that an SRO intends to act as a competing consolidator? Please explain.

The Commission is proposing Rule 614(a)(2) to provide the requirements for amending an effective Form CC. Under proposed Rule 614(b)(2)(iii), the Commission will make public any Form CC Amendment, as described below, no later than 30 calendar days from the date of its filing with the Commission. Proposed Form CC is similar to Form SIP and the information required to be filed on proposed Form CC is designed to enable market participants to make informed decisions when selecting a competing consolidator and to facilitate Commission oversight of competing consolidators. As described more fully below,[543] proposed Form CC would require information concerning, among other things: The legal name and legal status of the competing consolidator; the owners, directors, officers, and governors of the competing consolidator, or persons performing similar functions; whether the competing consolidator is a broker-dealer or an affiliate of a broker-dealer and a description of the organizational structure of the competing consolidator; contact information for an employee of the competing consolidator prepared to respond to questions regarding Form CC; a description of each consolidated market data service or function, including connectivity and delivery options for subscribers, and a description of all procedures utilized for the collection, processing, distribution, publication and retention of information with respect to quotations for, and transactions in, securities; a description of all market data products with respect to consolidated data, or a subset thereof, that the competing consolidator provides to subscribers; a description of fees and charges for use of the competing consolidator with respect to consolidated market data, including the types, range, and structure of the competing consolidator's fees and differentiation among the types of subscribers; a description of any co-location and related services, the terms and conditions for co-location, connectivity, and related services, including connectivity and throughput options offered, and a description of any other means besides co-location and related services to increase the speed of communication, including a summary of the terms and conditions for its use; and a narrative description, or the functional specifications, of each consolidated market data service or function, including connectivity and delivery options for the subscribers.

The Commission is proposing Rule 614(a)(2)(i) to require a competing consolidator to amend an effective Form CC in accordance with the instructions therein: (i) Prior to the date of implementation of a material change to the pricing, connectivity, or products offered; and (ii) no later than 30 calendar days after the end of each calendar year to correct information, whether material or immaterial, that has become inaccurate or incomplete for any reason (''Annual Report''). The Commission preliminarily believes that a change to a competing consolidator's pricing, connectivity, or products offered would be material if there is a substantial likelihood that a reasonable market participant would consider the change important when evaluating the competing consolidator as a provider of market data.[544]

[542] The responsibility for accurate, current, and complete disclosures on proposed Form CC would lie with the competing consolidator. The Commission's review of an initial Form CC would focus on an evaluation of the completeness and accuracy of the disclosures and compliance with federal securities laws. The Commission's evaluation regarding compliance with federal securities laws would involve a review of the Form CC disclosures for apparent non-compliance with federal securities laws, or other rules or regulations thereunder, and would focus on the disclosures made on the Form CC.

[543] *See infra* Section IV.B.2(e)(iii).

[544] *See* Securities Exchange Act Release No. 833633 (July 18, 2018), 83 FR 38768 (Aug. 7, 2018)

The Commission preliminarily believes that the proposal to amend an effective Form CC prior to implementing a Material Amendment would provide market participants with information concerning changes to significant aspects of the competing consolidator's services, which would assist market participants in evaluating, or re-evaluating, the competing consolidator as a provider of market data. The Commission preliminarily believes that requiring a competing consolidator to amend an effective Form CC no later than 30 calendar days after the end of each calendar year to correct any other information that has become inaccurate or incomplete for any reason would help to ensure that market participants have accurate and current information regarding competing consolidators. The Commission preliminarily believes that providing a mechanism for competing consolidators to disclose changes to their operations or to update information that does not constitute a Material Amendment (*e.g.,* a change in the organizational structure of the competing consolidator, its officers or directors, or its affiliated entities) no later than 30 calendar days after the end of each calendar year would tailor the reporting burden on competing consolidators to the degree of significance of the change in a manner that does not compromise the ability of market participants to obtain information about the competing consolidator's operations.

The Commission believes that market participants would use information regarding a competing consolidator's organization, operational capability, market data products, fees, and co-location and related services to determine whether to subscribe, or continue subscribing, to a competing consolidator. In addition, this information would assist market participants in evaluating which products and services of the competing consolidator would be most useful to them. The information in proposed Form CC is also designed to ensure that the Commission has specified information regarding entities acting as competing consolidators, to facilitate the Commission's oversight of competing consolidators and help to ensure the resiliency of a competing consolidator's systems. Given these intended uses, the Commission believes that it is important for a competing consolidator to maintain an accurate, current, and complete Form CC.

The Commission requests comment on proposed Rule 614(a)(2), which establishes filing requirements for Form CC Amendments. In particular, the Commission solicits comment on the following:

90. In addition to material changes to a competing consolidator's pricing, connectivity, or products, what should be a Material Amendment?

91. Do commenters believe that a competing consolidator should be required to file a Material Amendment within a specified time prior to implementing the change that constitutes a Material Amendment? Why or why not? Please support your arguments. Is 30 days an appropriate amount of time for a Material Amendment to be filed?

92. Do commenters believe that a competing consolidator should be required to file an Annual Report? Why or why not? Proposed Rule 614(a)(3) would require a competing consolidator to provide notice of its cessation of operations on Form CC at least 30 business days before the date the competing consolidator ceases to operate as a competing consolidator. The notice of cessation would cause the Form CC to become ineffective on the date designated by the competing consolidator. This requirement would provide notice to the public and the Commission that the competing consolidator intends to cease operations. The Commission preliminarily believes that this notice would provide market participants with time to find and select an alternative provider of market data.

The Commission requests comment on proposed Rule 614(a)(3), which establishes filing requirements for a Form CC notice of cessation. In particular, the Commission solicits comment on the following:

93. Should the Commission require a competing consolidator to give notice that it intends to cease operations 30 business days or more before ceasing operations as a competing consolidator? If not, why not? Is 30 business days an appropriate time for providing notice of an intention to cease operations? If not, what time period would be appropriate?

In proposed Rule 614(b), the Commission is proposing to make public all Form CC reports filed by competing consolidators and other information. Under proposed Rule 614(b)(1), every Form CC filed pursuant to Rule 304 shall constitute a ''report'' within the meaning of Sections 11A, 17(a), 18(a), and 32(a), and any other applicable provisions of the Exchange Act. Because proposed Form CC is a report that is required to be filed under the Exchange Act, it would be unlawful for any person to willfully or knowingly make, or cause to be made, a false or misleading statement with respect to any material fact in Form CC. Under proposed Rule 614(b)(2), the Commission would make public via posting on the Commission's website each: (i) Effective initial Form CC; (ii) order of ineffective Form CC; (iii) filed Form CC Amendment; and (iv) notice of cessation. Under the proposed rule, the Commission would publish each Form CC Material Amendment and Annual Report on its website no later than 30 days after the competing consolidator filed the amendment.

The Commission preliminarily believes that making each Form CC filing public via public posting on the Commission's website would provide market participants with important information about the operations of a competing consolidator and facilitate the Commission's oversight of competing consolidators. The Commission preliminarily believes that this information should be easily accessible to all market participants so that market participants may better evaluate a competing consolidator as a potential provider of market data. Additionally, the Commission preliminarily believes that the publication of Material Amendments and Annual Reports would provide market participants with information necessary to evaluate, or re-evaluate, a competing consolidator as a provider of market data, facilitate the Commission's oversight of competing consolidators, and help to ensure the continued resiliency of a competing consolidator's systems.

The Commission requests comment on proposed Rule 614(b), which would establish public disclosure requirements for Form CC filings. In particular, the Commission solicits comment on the following:

94. Do commenters believe that the Commission should post on its website each effective initial Form CC, each notice of ineffectiveness of a Form CC, each Form CC Amendment, and each notice of cessation? Why or why not? Please support your arguments. Do commenters believe a competitive marketplace would provide competing consolidators with incentives to disclose sufficient information in the normal course of business? Why or why not?

(Regulation of NMS Stock Alternative Trading Systems) (stating that a change to the operations of an NMS Stock ATS, or the disclosures regarding the activities of the broker-dealer operator of the NMS Stock ATS and its affiliates, would be material if there is a substantial likelihood that a reasonable market participant would consider the change important when evaluating the NMS Stock ATS as a potential trading venue).

The Commission preliminarily believes that it would be helpful for a competing consolidator to make market participants aware that the competing consolidator's filings are publicly posted on the Commission's website. Therefore, proposed Rule 614(c) would require each competing consolidator to post on its website a direct URL hyperlink to the Commission's website that contains the documents enumerated in proposed Rule 614(b)(2), which includes the competing consolidator's Form CC filings. The Commission preliminarily believes that this requirement would make it easier for market participants to review a competing consolidator's Form CC filings by providing an additional means for market participants to locate Form CC filings that are posted on the Commission's website.

The Commission requests comment on proposed Rule 614(c), which would require each competing consolidator to provide a direct URL hyperlink to the Commission's website that contains the documents identified in proposed Rule 614(b)(2). In particular, the Commission solicits comment on the following:

95. Do commenters believe that proposed Rule 614(c) should require each competing consolidator to provide a direct URL hyperlink to the Commission's website that contains the documents identified in proposed Rule 614(b)(2). Why or why not? Please support your arguments.

Under the proposed decentralized consolidation model, competing consolidators would be required to perform many of the obligations currently performed by the existing exclusive SIPs. Proposed Rule 614(d) establishes the responsibilities applicable to competing consolidators, which also includes the disclosure of information that would facilitate the Commission's oversight of competing consolidators and assist market participants in choosing and evaluating competing consolidators. Proposed Rule 614(d)(1) would require each competing consolidator to collect from each national securities exchange and national securities association, either directly or indirectly, the information with respect to quotations for and transactions in NMS stocks as provided in Rule 603(b), which would include all data necessary to generate the proposed consolidated market data. Proposed Rule 614(d)(2) would require each competing consolidator to calculate and generate consolidated market data, as defined in proposed Rule 600(b)(16), from the information collected in proposed Rule 614(d)(1). Proposed Rule 614(d)(3) would require competing consolidators to make the proposed consolidated market data available to subscribers on a consolidated basis and on terms that are not unreasonably discriminatory, with the timestamps required by proposed Rule 614(d)(4) and Rule 614(e)(1)(ii), as discussed below.

As noted above, competing consolidators would be required under proposed Rule 614(d)(2) to calculate and generate proposed consolidated market data and make proposed consolidated market data available to subscribers. Accordingly, all competing consolidators would be required to develop a consolidated market data product that contains all of the data elements provided under the proposed definition of consolidated market data. In addition, competing consolidators could develop other market data products that contain only a subset of consolidated market data elements (*e.g.,* a TOB product) and could develop market data products that contain elements that go beyond the elements required under the proposed definition of consolidated market data (*e.g.,* a full DOB product). The Commission recognizes that market participants have varying needs with respect to market data, and the proposed rules would permit a competing consolidator to offer additional market data products to meet these needs so long as the competing consolidator complies with proposed Rules 614(d)(2) and (d)(3) by providing a consolidated market data product.[545]

The Commission preliminarily believes that the proposed provisions are both necessary and appropriate because they reflect the main obligations of competing consolidators, which are to collect, calculate, and disseminate consolidated market data, as proposed. In addition, the use of a competing consolidator at a specific data center would likely be more accurate and useful in assessing the trading activity of a trading participant in that same data center. As proposed, competing consolidators would be the only entities providing proposed consolidated market data to market participants. Accordingly, the terms by which they provide proposed consolidated market data to their subscribers must not be unreasonably discriminatory.[546]

The Commission requests comment on proposed Rules 614(d)(1)–(3). In particular, the Commission solicits comment on the following:

96. Do these provisions reflect the main obligations of competing consolidators? Should there be any other obligations?

97. Competing consolidators would be required to generate proposed consolidated market data, which would include the calculation of an NBBO consistent with the process outlined in the definition of NBBO in Rule 600(b)(42). Do commenters believe that the definition of NBBO would ensure the calculation of consistent NBBOs by competing consolidators?

98. Do commenters believe that competing consolidators should be required to develop a consolidated market data product that contains all of the data elements provided under the proposed definition of consolidated market data? Why or why not? Could there be some competing consolidators that only offer a subset of the proposed consolidated market data? Please explain.

Proposed Rule 614(d)(4) would require each competing consolidator to timestamp the information collected in proposed Rule 614(d)(1): (i) Upon receipt from each national securities exchange and national securities association at the exchange's or association's data center; (ii) upon receipt of such information at its aggregation mechanism; and (iii) upon dissemination of consolidated market data to customers. The Commission understands that the existing SIPs similarly timestamp information in accordance with proposed Rule 614(d)(4)(i) and (iii). The Commission preliminarily believes that the proposed rule is appropriate because it would allow subscribers to ascertain a competing consolidator's realized latency (*i.e.,* how quickly the competing consolidator can receive data from the exchanges, transmit that data between the exchange's data center and its aggregation center, and aggregate and disseminate proposed consolidated market data to subscribers). This information provides transparency that should help subscribers evaluate a potential competing consolidator or determine whether an existing competing consolidator continues to meet their needs.[547]

The Commission is also proposing several rules, described below, that would require public disclosure of metrics and other information concerning the performance and operations of a competing consolidator. The information that the Commission is

[545] *See supra* Section III.A.

[546] *See* 15 U.S.C. 78k–1(c)(1)(D).

[547] If a competing consolidator uses a vendor to transmit data between the SRO data center and the competing consolidator's data center, the competing consolidator retains responsibility for collecting all of the timestamps described in proposed Rule 614(d)(4).

proposing that competing consolidators publish is based upon information that is currently produced by the CTA/CQ SIP and the Nasdaq UTP SIP, either for public or internal distribution.[548] Because this information is useful to current users of the exclusive SIPs and participants of the Equity Data Plans, the Commission preliminarily believes that it should be made publicly available [549] by competing consolidators. The Commission preliminarily believes that public disclosure and accessibility of this information would help market participants to evaluate the merits of a competing consolidator by providing transparency into the services and performance, and resiliency of each competing consolidator, and could also lower search costs for market participants and enhance competition. In addition, the Commission preliminarily believes that the public disclosure of this information—particularly the system availability and network delay statistics and data quality and system issues—would help to ensure that competing consolidators have a demonstrated ability to provide consolidated market data in a stable and resilient manner.

Proposed Rule 614(d)(5) would require each competing consolidator to publish prominently on its website, within 15 calendar days after the end of each month, certain performance metrics. All information posted pursuant to proposed Rule 614(d)(5) must be publicly posted in downloadable files and must remain free and accessible (without any encumbrances or restrictions) by the general public on the website for a period of not less than three years from the initial date of posting. The Commission preliminarily believes that the availability of this information on a website (without any encumbrances or restrictions) would assist market participants in comparing competing consolidators and evaluating their performance over time.[550] In particular, proposed Rule 614(d)(5) would provide that the performance metrics include: (i) Capacity statistics (such as system tested capacity, system output capacity, total transaction capacity, and total transaction peak capacity); (ii) message rate and total statistics (such as peak output rates on the following bases: 1-millisecond, 10-millisecond, 100-millisecond, 500-millisecond, 1-second, and 5-second); (iii) system availability statistics (for example, whether system up-time has been 100% for the month and cumulative amount of outage time); (iv) network delay statistics (for example, today under a TCP–IP network, network delay statistics would include quote and trade zero window size events, quote and trade TCP retransmit events, and quote and trade message total); and (v) latency statistics (with distribution statistics up to the 99.99th percentile) for (1) when a national securities exchange or national securities association sends an inbound message to a competing consolidator network and when the competing consolidator network receives the inbound message; [551] (2) when the competing consolidator network receives the inbound message and when the competing consolidator network sends the corresponding consolidated message to a subscriber; and (3) when a national securities exchange or national securities association sends an inbound message to a competing consolidator network and when the competing consolidator network sends the corresponding consolidated message to a subscriber.

Additionally, proposed Rule 614(d)(6) would require each competing consolidator to publish prominently on its website, within 15 calendar days after the end of each month, information on: (i) Data quality issues (such as delayed message publication, publication of duplicative messages, and message inaccuracies); (ii) system issues (such as processing, connectivity, and hardware problems); (iii) any clock synchronization protocol utilized; (iv) for the clocks used to generate the timestamps described in Rule 614(d)(4), clock drift averages and peaks and number of instances of clock drift greater than 100 microseconds; [552] and (v) vendor alerts (such as holiday reminders and testing dates). All information posted pursuant to proposed Rule 614(d)(6) must be publicly posted and must remain free and accessible (without any encumbrances or restrictions) by the general public on the website for a period of not less than three years from the initial date of posting.

The Commission requests comment on proposed Rules 614(d)(4)–(d)(6). In particular, the Commission solicits comment on the following:

99. Do commenters believe that separate timestamps should be required as described in Rule 614(d)(4)? Are these the relevant instances for timestamps? Should any other timestamps be adopted? Should any of the proposed timestamps not be required?

100. Do commenters believe that the information required to be published pursuant to proposed Rule 614(d)(5) and proposed Rule 614(d)(6) is appropriate for competing consolidators? Should any further information be published? Is any information proposed to be published unnecessary?

101. Do commenters believe that the frequency of publication of the information required to be published pursuant to proposed Rule 614(d)(5) and proposed Rule 614(d)(6) is sufficient? Is it too onerous?

102. Do commenters believe that requiring each competing consolidator to publish the data required by proposed Rule 614(d)(5) and proposed Rule 614(d)(6) on its respective website is appropriate? Would commenters prefer that the competing consolidators instead file the data with the Commission for publication on the Commission's website?

103. Do commenters believes that any of the information required to be published on the competing consolidator's website should not be required to be made publicly available? Please explain. If so, should this information be required to be provided to subscribers? Should any information proposed to be made publicly available not be made publicly available due to competitive concerns? If so, please

[548] The exclusive SIPs currently publish to their respective websites monthly processor metrics that provide the following information: System availability, message rate and capacity statistics, and the following latency statistics from the point of receipt by the SIP to dissemination from the SIP: Average latency and 10th, 90th and 99th percentile latency. *See* CTA Metrics, *available at https://www.ctaplan.com/metrics;* UTP Metrics, *available at http://www.utpplan.com/metrics.* Additionally, the exclusive SIPs post on their websites any system alerts and the Nasdaq UTP Plan posts vendor alerts as well. *See* CTA Alerts, *available at https://www.ctaplan.com/alerts;* UTP–SIP System Alerts, *available at http://www.utpplan.com/system_alerts;* UTP Vendor Alerts, *available at http://www.utpplan.com/vendor_alerts.* Further, the exclusive SIPs publish on their websites charts detailing realized latency from the inception of a Participant matching engine event through the point of dissemination from the exclusive SIP. *See* CTA Latency Charts, *available at https://www.ctaplan.com/latency-charts;* UTP Realized Latency Charting, *available at http://www.utpplan.com/latency_charts.*

[549] Rule 600(b)(37) of Regulation NMS defines ''make publicly available'' as ''posting on an internet website that is free and readily accessible to the public, furnishing a written copy to customers on request without charge, and notifying customers at least annually in writing that a written copy will be furnished on request.'' *See* 17 CFR 242.600(b)(37).

[550] A competing consolidator that ceases operations would not be required to maintain the information posted pursuant to proposed Rule 614(d)(5) after the competing consolidator files its notice of cessation and its Form CC becomes ineffective, as provided in proposed Rule 614(a)(3).

[551] The Commission believes that the SIPs do not currently produce this latency statistic.

[552] The Commission believes that the SIPs do not currently produce this information.

identify the information and provide an explanation.

104. Do commenters believe a requirement for the competing consolidators to publish historical performance data should be included in proposed Rule 614(d)(5) and proposed Rule 614(d)(6)? If yes, for what time periods should historical data be required to be published?

The Commission is proposing several rules that would require competing consolidators to provide and maintain information for regulatory purposes. Proposed Rule 614(d)(7) would require each competing consolidator to keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and such other records as shall be made or received by it in the course of its business as such and in the conduct of its business.[553] The proposed rule would require competing consolidators to keep these documents for a period of no less than five years, the first two years in an easily accessible place. Proposed Rule 614(d)(8) would require each competing consolidator to, upon request of any representative of the Commission, promptly furnish to the possession of such representative copies of any documents required to be kept and preserved by it.[554] These requirements would facilitate the Commission's oversight of competing consolidators and the national market system.

The Commission requests comment on proposed Rules 614(d)(7) and (d)(8). In particular, the Commission solicits comment on the following:

105. Do commenters believe that the documents required to be kept and preserved by proposed Rule 614(d)(7) are appropriate for competing consolidators? If not, please explain. Are there any other documents that should be kept and preserved by competing consolidators?

106. Do commenters believe that the recordkeeping time periods required by proposed Rule 614(d)(7) are appropriate for competing consolidators? If not, what would be more appropriate recordkeeping time periods?

107. Do commenters believe that proposed Rule 614(d)(8), which requires competing consolidators to provide copies of any documents required to be kept and preserved to any representative of the Commission upon request, is appropriate for competing consolidators? If not, please explain.

The Commission is proposing to define ''business day'' for purposes of proposed Rule 614 to comport with provisions contained in Rule 19b–4 and to specify the conditions under which filings required pursuant to Rule 614 are deemed to have been made on a particular business day. Specifically, the Commission proposes to define ''business day'' in the same manner in which it is defined in Rule 19b–4(b)(2).[555] The Commission preliminarily believes that these provisions providing a date-of-filings standard would facilitate the ability of competing consolidators to comply with the requirements of Rule 614 and facilitate the ability of the Commission to effectively receive, review, and make public the filings required under proposed Rule 614.

The Commission requests comment on proposed Rules 614(a)(4)(i) and (a)(4)(ii). In particular, the Commission solicits comment on the following:

108. Do commenters believe that the definition of business day in proposed Rule 614(a)(4)(i) is appropriate? Why or why not? Would any alternative definition of business day be preferable? Please explain.

109. Do commenters believe that the standards set forth in proposed Rule 614(a)(4)(ii) regarding when a filing or publication requirement is deemed to have occurred on a particular business day are appropriate? Why or why not? Would any alternative standards be preferable? Please explain.

(iii) Proposed New Form CC

Proposed new Form CC includes a set of instructions for its completion and submission. These instructions are attached to this release, together with proposed Form CC. Proposed Form CC would require competing consolidators[556] to provide information and/or reports in narrative form by attaching specified exhibits. The proposed form would require a competing consolidator to indicate the purpose for which it is filing the form (*i.e.,* initial report, material amendment, annual amendment, or notice of cessation), and to provide information in four categories: (1) General information, along with contact information; (2) business organization; (3) operational capability; and (4) services and fees. The Commission preliminarily believes that it is necessary to obtain the information requested in proposed Form CC to enable the Commission to determine whether to declare a Form CC ineffective. Specifically, the Commission believes that the requested information would assist the Commission in understanding the competing consolidator's overall business structure, technological reliability, and services offered. In addition, Form CC would help to provide for consistent disclosures among competing consolidators.

General Information: Proposed Form CC would require a competing consolidator to provide its legal name and ''DBA'' (doing business as), if applicable, its address, website URL, legal status (*e.g.,* corporation, partnership, and sole proprietorship), and, except in the case of a sole proprietorship, the date of formation and state or country in which it was formed. The Commission preliminarily believes that this basic information is necessary for the Commission to evaluate a competing consolidator. Proposed Form CC also would require the competing consolidator to indicate (1) whether it is registered as a broker-dealer or affiliated with a registered broker-dealer and (2) whether it is a successor to a previously registered competing consolidator and, if so, the date of succession and the name and address of the predecessor registrant. The Commission preliminarily believes that this would provide basic identifying information about the competing consolidator and assist the Commission in its review of Form CC.

Business Organization: Proposed Form CC would require each competing consolidator to provide information regarding its business organization, including: (1) In Exhibit A, information regarding any person who owns 10 percent or more of the competing

[553] *See* Section 17(a)(1) of the Exchange Act, 15 U.S.C. 78q(a)(1).

[554] In this context, ''promptly'' or ''prompt'' means making reasonable efforts to produce records that are requested by the staff during an examination without delay. The Commission believes that in many cases a competing consolidator could, and therefore will be required to, furnish records immediately or within a few hours of a request. The Commission expects that only in unusual circumstances would a competing consolidator be permitted to delay furnishing records for more than 24 hours. *Accord* Regulation Crowdfunding, Securities Act Release No. 9974, Securities Exchange Act Release No. 76324 (Oct. 30, 2015), 80 FR 71387, 71473 n. 1122 (Nov. 15, 2015) (similarly interpreting the term ''promptly'' in the context of Regulation Crowdfunding Rule 404(e)); Security Based Swap Data Repository Registration, Duties, and Core Principles, Securities Exchange Act Release No. 74246 (Feb. 11, 2015), 80 FR 14438, 14500, n. 846 (March 19, 2015) (similarly interpreting the term ''promptly'' in the context of Exchange Act Rule 13n–7(b)(3)); Registration of Municipal Advisors, Securities Exchange Act Release No. 70462 (Sept. 20, 2013), 78 FR 67468, 67578–67579 n. 1347 (Nov. 12, 2013) (similarly interpreting the term ''prompt'' in the context of Exchange Act Rule 15Ba1–8(d)).

[555] *See* Rule 19b–4(b)(2), 17 CFR 240.19b–4(b)(2).

[556] As explained above, only non-exclusive SIP competing consolidators, and not SRO competing consolidators, would be required to register on Form CC.

consolidator's stock or who, either directly or indirectly, through agreement or otherwise, in any other manner, may control or direct the competing consolidator's management or policies, including the full name and title of any such person and a copy of the agreement, or if there is no written agreement, a description of the agreement or basis upon which such person may exercise such control or direction; (2) in Exhibit B, a list of the officers, directors, governors, or persons performing similar functions of the competing consolidator; (3) in Exhibit C, a narrative or graphic description of the competing consolidator's organizational structure; and (4) in Exhibit D, a list of all affiliates of the competing consolidator and the general nature of the affiliations. The Commission preliminarily believes that obtaining this information would assist the Commission in understanding the competing consolidator's overall business structure, governance arrangements, and operations, all of which would assist the Commission in its review of Form CC. If the competing consolidator is a broker-dealer, or is affiliated with a broker-dealer, proposed Form CC would permit the competing consolidator to attach its, or its affiliate's, Schedule A of Form BD, relating to direct owners and executive officers, and Schedule B of Form BD, relating to indirect owners. Alternatively, in lieu of filing Exhibits A and B to proposed Form CC, or providing Schedules A and B of Form BD, proposed Form CC would permit a competing consolidator to provide a URL address where the information requested under Exhibits A and B to proposed Form CC are available. The Commission preliminarily believes that this information would help the Commission and market participants understand the persons and entities that directly and indirectly own the broker-dealer, thereby enabling the Commission and market participants to better understand potential conflicts of interest that may arise for a competing consolidator that is a broker-dealer or is affiliated with a broker-dealer.

Operational Capability: Proposed Form CC would require each competing consolidator to provide a description of each proposed consolidated market data service or function, including connectivity and delivery options for subscribers, and a description of all procedures utilized for the collection, processing, distribution, publication, and retention of information with respect to quotations for, and transactions in, securities. The Commission further believes, preliminarily, that this information could assist the Commission in overseeing competing consolidators and assist market participants in assessing whether to become a subscriber of a certain competing consolidator. Competing consolidators could serve an important role in the national market system by calculating and generating consolidated market data, as proposed, and, accordingly, it is important for the competing consolidator to provide the requested information relating to its operational capability.

Services and Fees: Proposed Form CC would further require a competing consolidator to provide information regarding access to its competing consolidator services, including: (1) A description of all market data products with respect to proposed consolidated market data or any subset of proposed consolidated market data that are provided to subscribers; (2) a description of any fees or charges for use of the competing consolidator with respect to proposed consolidated market data or any subset of proposed consolidated market data, including the types of fees (*e.g.,* subscription and connectivity), the structure of the fee (*e.g.,* fixed and variable), variables that affect the fees (*e.g.,* data center costs, aggregation costs, and transmission costs), pricing differentiation among the types of subscribers, and range of fees (high and low); (3) a description of any co-location, connectivity, and related services, and the terms and conditions for co-location and related services, including connectivity and throughput options offered; and (4) a description of any other means besides co-location and related services to increase the speed of communication, including a summary of the terms and conditions for its use. The Commission preliminarily believes that this information would assist market participants in determining whether to become a subscriber of a competing consolidator by requiring the availability to all market participants of information regarding the services offered by the competing consolidator and the fees it charges for services and proposed consolidated market data. The availability of this information would also help to assure that all subscribers and potential subscribers have the same information about the services that the competing consolidator offers.

Contact Information: In addition to the foregoing, proposed Form CC would require a competing consolidator to provide Commission staff with point of contact information for a person(s) prepared to respond to questions regarding Form CC, including the name, title, telephone number, and email address of such person. Proposed Form CC also would require an electronic signature to help ensure the authenticity of the Form CC submission. The Commission preliminarily believes these proposed requirements would expedite communications between Commission staff and a competing consolidator and help to ensure that only personnel authorized by the competing consolidator are submitting required filings and responding to questions from Commission staff regarding Form CC.

The Commission requests comment on proposed Form CC. In particular, the Commission solicits comment on the following:

110. Are the instructions in proposed Form CC sufficiently clear? If not, identify any instructions that should be clarified, and, if possible, offer alternatives.

111. Should the Commission implement an electronic filing system for receipt of Form CC, and, if so, what particular features should be incorporated into the system? Are there any burdens associated with the electronic filing of proposed Form CC that the Commission should consider?

112. Is the requested information relating to a competing consolidator's operational capability appropriate? If not, identify any items that are not appropriate, explain why, and, if possible, offer alternatives.

113. Is the requested information relating to access to a competing consolidator's services appropriate? If not, identify any items that are not appropriate, explain why, and, if possible, offer alternatives.

114. Do commenters believe that competing consolidators will bundle their products and/or services? If so, should this be disclosed on Form CC?

115. Should the Commission require any additional information on Form CC? If so, what information and why?

116. Are there any items on proposed Form CC that the Commission should not request? If so, which items and why?

(f) Amendments to Regulation SCI

The Commission adopted Regulation SCI in November 2014 to strengthen the technology infrastructure of the U.S. securities markets.[557] Regulation SCI is designed to reduce the occurrence of systems issues in the U.S. securities markets, improve resiliency when systems problems occur, and enhance

[557] *See* Regulation SCI Adopting Release, *supra* note 28, at 72252–56 for a discussion of the background of Regulation SCI.

the Commission's oversight of securities market technology infrastructure. The key market participants that are currently subject to Regulation SCI are called ''SCI entities'' and include certain SROs (including stock and options exchanges, registered clearing agencies, FINRA and the Municipal Securities Regulatory Board) (''SCI SROs''); alternative trading systems that trade NMS and non-NMS stocks exceeding specified volume thresholds (''SCI ATSs''); the exclusive SIPs (''plan processors''); and certain exempt clearing agencies.[558] Regulation SCI, among other things, requires these SCI entities to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that their key automated systems have levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability and promote the maintenance of fair and orderly markets, and that such systems operate in accordance with the Exchange Act and the rules and regulations thereunder and the entities' rules and governing documents, as applicable.[559] Broadly speaking, Regulation SCI also requires SCI entities to take appropriate corrective action when systems issues occur; provide certain notifications and reports to the Commission regarding systems problems and systems changes; inform members and participants about systems issues; conduct business continuity and disaster recovery testing and penetration testing; conduct annual reviews of their automated systems; and make and keep certain books and records.[560]

Regulation SCI applies primarily to the systems of, or operated on behalf of, SCI entities that directly support any one of six key securities market functions—trading, clearance and settlement, order routing, market data, market regulation, and market surveillance (''SCI systems'').[561] With respect to security, Regulation SCI also applies to systems that, if breached, would be reasonably likely to pose a security threat to SCI systems (''indirect SCI systems'').[562] In addition, certain systems that raise concerns about single points of failure (defined as ''critical SCI systems'') are subject to certain heightened requirements.[563]

When adopting Regulation SCI, the Commission included within the scope of Regulation SCI those entities ''that play a significant role in the U.S. securities markets and/or have the potential to impact investors, the overall market, or the trading of individual securities.'' [564] The Commission identified by function the key market participants it believed were integral to ensuring the stability, integrity, and resiliency of securities market infrastructure.[565] As discussed below, ''plan processors'' are currently among those entities that are subject to Regulation SCI. Under Regulation SCI, ''plan processors'' have the meaning set forth in Regulation NMS.[566] Thus, currently, the exclusive SIPs, or plan processors of the Equity Data Plans and the OPRA Plan, are subject to Regulation SCI.[567] The Commission included plan processors within the scope of Regulation SCI because the Commission believed that such entities, because they are exclusive processors and providers of key market data pursuant to a national market system plan, are central features of the national market system and serve an important role within the national market system in operating and maintaining computer and communications facilities for the receipt, processing, validating, and dissemination of quotation and/or last sale price information.[568]

The Commission preliminarily believes that competing consolidators, because they would be sources of consolidated market data, even if not exclusive sources of such data, would similarly serve an important role in the national market system, and therefore should be subject to the requirements of Regulation SCI. When adopting Regulation SCI, the Commission explained that Regulation SCI would apply not only to exclusive providers of consolidated market data, but also to the market data systems of SCI SROs, stating, ''both consolidated and proprietary market data systems are widely used and relied upon by a broad array of market participants, including institutional investors, to make trading decisions, and [] if a consolidated or a proprietary market data feed became unavailable or otherwise unreliable, it could have a significant impact on the trading of the securities to which it pertains, and could interfere with the maintenance of fair and orderly markets.'' [569] The Commission preliminarily believes that if a consolidated market data feed of a competing consolidator became unavailable or otherwise unreliable, it could have a significant impact on the trading of NMS stocks and/or the market participants subscribing to its data feeds, and could possibly interfere with the maintenance of fair and orderly markets. A systems issue could occur at a competing consolidator (*e.g.,* a systems disruption that prevented the competing consolidator from disseminating consolidated market data to its subscribers, a systems intrusion that impacted the quality of the data being disseminated, or another cybersecurity incident, such that certain market participants or the securities markets broadly could be significantly impacted until such time that the issue was resolved at the competing consolidator, or the end user (or its market data vendor, if applicable) was able to implement any backup arrangements with an alternative competing consolidator. As detailed further below, the Commission is requesting comment on whether all of the obligations set forth in Regulation SCI should apply to competing consolidators, or whether only certain requirements should be imposed, such as those requiring written policies and procedures, notification of systems problems, business continuity and disaster recovery testing (including testing with participants/subscribers of a competing consolidator), and penetration testing.

In addition, the Commission is proposing to revise the definition of ''critical SCI system,'' to take account of competing consolidators, which, as proposed, would not be exclusive providers of consolidated market data. Currently, subparagraph (1)(v) of the

[558] *See* Rule 1000 of Regulation SCI, 17 CFR 242.1000. Because self-aggregators would be broker-dealers, *see infra* Section IV.B.3, they would be subject to existing broker-dealer risk control and supervisory obligations. *See, e.g.,* 17 CFR 240.15c3–5, FINRA Rule 3110, FINRA Rule 4370, FINRA Rule 4380.

[559] *See* Rule 1001 of Regulation SCI, 17 CFR 242.1001, which is also discussed further below.

[560] *See* Rules 1002–1007 of Regulation SCI, 17 CFR 242.1001–1007, which are also discussed further below.

[561] *See* Rule 1000 of Regulation SCI, 17 CFR 242.1000.

[562] *Id.*

[563] *Id.* Subparagraph (1) of the definition of ''critical SCI systems'' in Rule 1000 of Regulation SCI specifically enumerates certain systems to be within its scope, including those that ''directly support functionality relating to: (i) Clearance and settlement systems of clearing agencies; (ii) openings, reopenings, and closings on the primary listing market; (iii) trading halts;(iv) initial public offerings; (v) the provision of consolidated market data; or (vi) exclusively-listed securities . . .''.

[564] *See* Regulation SCI Adopting Release, *supra* note 28, at 72258.

[565] *Id.* at 72254.

[566] *See* Rule 600(b)(59) of Regulation NMS, 17 CFR 242.600(b)(59).

[567] *See also* Regulation SCI Adopting Release, *supra* note 28, at 72270–71, n. 196 (discussing how the term ''plan processor'' applies to the CTA, CQ, Nasdaq UTP, and OPRA plans).

[568] *See also id.* at 72271. The Commission also stated how systems issues affecting SIPs highlighted their importance within the national market system. *See id.* at n. 199 (discussing the impact of two systems issues involving SIPs).

[569] *See* Regulation SCI Adopting Release, *supra* note 28, at 72275.

definition of ''critical SCI systems'' includes those SCI systems of, or operated on behalf of, an SCI entity that directly support functionality relating to ''the provision of consolidated market data.'' The Commission is proposing to revise this subparagraph to apply to those systems that directly support functionality relating to ''the provision of market data by a plan processor.'' The proposed revised language in subparagraph (1)(v) is intended to identify as critical SCI systems only those market data systems that perform an exclusive market data dissemination function pursuant to an NMS plan. Accordingly, the scope of ''critical SCI systems'' would still capture single points of failure within the national market system. Under the current consolidation model, because the exclusive SIPs represent such single points of failure, they are all subject to heightened requirements as ''critical SCI systems.'' However, because the competing consolidator model is designed to result in multiple viable sources of consolidated market data, and would not be initiated until a transition period was complete,[570] the Commission preliminarily believes that including systems of such competing consolidators within the scope of ''critical SCI systems'' would not be necessary. With multiple competing consolidators operating in the national market system, the systems of competing consolidators would be subject to the standard (*i.e.,* as SCI systems that are not critical SCI systems) requirements of Regulation SCI, whereas the proposed revised definition of ''critical SCI systems'' would address single point of failure concerns.

Because the competing consolidator model would not apply with respect to trading in options, the definition of ''critical SCI systems'' must still account for the systems of OPRA's plan processor, whose systems would continue to be ''critical SCI systems.'' In addition, to avoid confusion with the term ''consolidated market data''—which is proposed to be defined to include (1) core data, (2) regulatory data, (3) administrative data, (4) exchange-specific program data, and (5) additional regulatory, administrative, or exchange-specific program data elements defined as such pursuant to the effective national market system plan(s) required under Rule 603(b) [571]—the Commission is proposing to replace that phrase within the definition of ''critical SCI systems'' with ''market data.'' [572]

Thus, under this proposal, the definition of ''SCI entities'' would be expanded to include ''competing consolidators,'' which would be defined to have the same meaning as the definition of ''competing consolidators'' set forth in proposed Rule 600(b)(16) of Regulation NMS.[573] Competing consolidators would be subject to the requirements of Regulation SCI, as described below.

Rule 1001(a) of Regulation SCI requires SCI entities to have policies and procedures reasonably designed to ensure that their SCI systems and, for purposes of security standards, indirect SCI systems, have levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability and promote the maintenance of fair and orderly markets, and includes certain minimum requirements for those policies and procedures relating to capacity planning, stress tests, systems development and testing methodology, the identification of vulnerabilities, business continuity and disaster recovery plans (including geographic diversity and resumption goals), and monitoring.[574] Of particular note for competing consolidators is Rule 1001(a)(2)(vi), which requires that an SCI entity's policies and procedures include standards ''that result in such systems being designed, developed, tested, maintained, operated, and surveilled in a manner that facilitates the successful collection, processing, and dissemination of market data.'' [575] Rule 1001(a)(3) of Regulation SCI requires that SCI entities periodically review the effectiveness of these policies and procedures, and take prompt action to remedy any deficiencies.[576] Rule 1001(a)(4) of Regulation SCI provides that, for purposes of the provisions of Rule 1001(a), an SCI entity's policies and procedures will be deemed to be reasonably designed if they are consistent with current SCI industry standards, which shall be comprised of information technology practices that are widely available to information technology professionals in the financial sector and issued by an authoritative body that is a U.S. governmental entity or agency, association of U.S. governmental entities or agencies, or widely recognized organization; [577] however, Rule 1001(a)(4) of Regulation SCI also makes clear that compliance with such ''current SCI industry standards'' are not the exclusive means to comply with these requirements.

Rule 1001(b) of Regulation SCI requires that each SCI entity establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its SCI systems operate in a manner that complies with the Act and the rules and regulations thereunder and the entity's rules and governing documents, as applicable, and specifies certain minimum requirements for such policies and procedures.[578] Rule 1001(b)(3) of Regulation SCI requires that SCI entities periodically review the effectiveness of these policies and procedures, and take prompt action to remedy any deficiencies.[579] Rule 1001(b)(4) of Regulation SCI provides individuals with a safe harbor from liability under Rule 1001(b) if certain conditions are met.[580]

Rule 1001(c) of Regulation SCI requires SCI entities to establish, maintain, and enforce reasonably designed written policies and procedures that include the criteria for identifying responsible SCI personnel, the designation and documentation of responsible SCI personnel, and

[570] *See infra* Section IV.B.6.

[571] *See* proposed Rule 600(b)(19) of Regulation NMS. *See also supra* Section III.B.

[572] *See* proposed amendment to Rule 1000 of Regulation SCI.

[573] *See* proposed amendment to Rule 1000 of Regulation SCI. As discussed above, competing consolidators would not fall within the definition of ''plan processors'' under Regulation SCI. *See supra* notes 566–567 and accompanying text. In addition to revising Rule 1000 of Regulation SCI to define ''competing consolidators'' and include them within the definition of ''SCI entity,'' corresponding changes would be made to Form SCI and the General Instructions to Form SCI to include references to ''competing consolidators.'' *See infra* note 595 and accompanying text (discussing Form SCI and Rule 1006 of Regulation SCI).

[574] Rule 1001(a) of Regulation SCI, 17 CFR 242.1001(a).

[575] Rule 1001(a)(2)(vi) of Regulation SCI, 17 CFR 242.1001(a)(2)(vi).

[576] Rule 1001(a)(3) of Regulation SCI, 17 CFR 242.1001(a)(3).

[577] Rule 1001(a)(4) of Regulation SCI, 17 CFR 242.1001(a)(4). We note that concurrent with the Commission's adoption of Regulation SCI, Commission staff issued staff guidance on current SCI industry standards as referenced in Regulation SCI. The staff guidance listed examples of publications in nine domains describing processes, guidelines, frameworks, or standards an SCI entity could look to in developing reasonable policies and procedures to comply with Rule 1001(a) of Regulation SCI. *See* ''Staff Guidance on Current SCI Industry Standards,'' November 19, 2014, *available at: https://www.sec.gov/rules/final/2014/staff-guidance-current-sci-industry-standards.pdf.* The domains included: Application controls; capacity planning; computer operations and production environment controls; contingency planning; information security and networking; audit; outsourcing; physical security; and systems development methodology.

[578] Rule 1001(b)(1)–(2) of Regulation SCI, 17 CFR 242.1001(b)(1)–(2).

[579] Rule 1001(b)(3) of Regulation SCI, 17 CFR 242.1001(b)(3).

[580] Rule 1001(b)(4) of Regulation SCI, 17 CFR 242.1001(b)(4).

escalation procedures to quickly inform responsible SCI personnel of potential SCI events.[581] Rule 1000 of Regulation SCI defines ''responsible SCI personnel'' to mean, ''for a particular SCI system or indirect SCI system impacted by an SCI event, such senior manager(s) of the SCI entity having responsibility for such system, and their designee(s).'' [582] Rule 1000 also defines ''SCI event'' to mean an event at an SCI entity that constitutes a system disruption, a systems compliance issue, or a systems intrusion.[583] Rule 1001(c)(2) of Regulation SCI requires that SCI entities periodically review the effectiveness of these policies and procedures, and take prompt action to remedy any deficiencies.[584]

Under Rule 1002 of Regulation SCI, SCI entities have certain obligations related to SCI events. Specifically, when any responsible SCI personnel has a reasonable basis to conclude that an SCI event has occurred, an SCI entity must begin to take appropriate corrective action which must include, at a minimum, mitigating potential harm to investors and market integrity resulting from the SCI event and devoting adequate resources to remedy the SCI event as soon as reasonably practicable.[585] Rule 1002(b) provides the framework for notifying the Commission of SCI events including, among other things, to: Immediately notify the Commission of the event; provide a written notification within 24 hours that includes a description of the SCI event and the system(s) affected, with other information required to the extent available at the time; provide regular updates regarding the SCI event until the event is resolved; and submit a final detailed written report regarding the SCI event.[586] Rule 1002(c) of Regulation SCI also requires that SCI entities disseminate information to their members or participants regarding SCI events.[587] These information dissemination requirements are scaled based on the nature and severity of an event. Specifically, for ''major SCI events,'' SCI entities are required to promptly disseminate certain information about the event to all of its members or participants. For SCI events that are not ''major SCI events,'' SCI entities must, promptly after any responsible SCI personnel has a reasonable basis to conclude that an SCI has occurred, disseminate certain information to those SCI entity members and participants reasonably estimated to have been affected by the event. In addition, dissemination of information to members or participants is permitted to be delayed for systems intrusions if such dissemination would likely compromise the security of the SCI entity's systems or an investigation of the intrusion.[588]

Rule 1003(a) of Regulation SCI requires SCI entities to provide reports to the Commission relating to system changes, including a report each quarter describing completed, ongoing, and planned material changes to their SCI systems and the security of indirect SCI systems, during the prior, current, and subsequent calendar quarters, including the dates or expected dates of commencement and completion.[589] Rule 1003(b) of Regulation SCI also requires that an SCI entity conduct an ''SCI review'' not less than once each calendar year.[590] ''SCI review'' is defined in Rule 1000 of Regulation SCI to mean a review, following established procedures and standards, that is performed by objective personnel having appropriate experience to conduct reviews of SCI systems and indirect SCI systems, and which review contains: A risk assessment with respect to such systems of an SCI entity; and an assessment of internal control design and effectiveness of its SCI systems and indirect SCI systems to include logical and physical security controls, development processes, and information technology governance, consistent with industry standards.[591] Rule 1003(b)(2)–(3) SCI entities are also required to submit a report of the SCI review to their senior management, and must also submit the report and any response by senior management to the report, to their board of directors as well as the Commission.[592]

Rule 1004 of Regulation SCI sets forth the requirements for testing an SCI entity's business continuity and disaster recovery plans with its members or participants. This rule requires that, with respect to an SCI entity's business continuity and disaster recovery plan, including its backup systems, each SCI entity shall: (a) Establish standards for the designation of those members or participants that the SCI entity reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans; [593] (b) designate members or participants pursuant to the standards established and require participation by such designated members or participants in scheduled functional and performance testing of the operation of such plans, in the manner and frequency specified by the SCI entity, provided that such frequency shall not be less than once every 12 months; and (c) coordinate the testing of such plans on an industry- or sector-wide basis with other SCI entities.

Rule 1005(b) of Regulation SCI relates to the recordkeeping requirements of competing consolidators related to compliance with Regulation SCI.[594]

[581] Rule 1001(c) of Regulation SCI, 17 CFR 242.1001(c).

[582] Rule 1000 of Regulation SCI, 17 CFR 242.1000.

[583] A ''systems disruption'' means an event in an SCI entity's SCI systems that disrupts, or significantly degrades, the normal operation of an SCI system. A ''systems compliance issue'' means ''an event at an SCI entity that has caused any SCI system of such entity to operate in a manner that does not comply with the Act and the rules and regulations thereunder or the entity's rules or governing documents, as applicable.'' A ''systems intrusion'' means any unauthorized entry into the SCI systems or indirect SCI systems of an SCI entity.'' *See* Rule 1000 of Regulation SCI, 17 CFR 242.1000.

[584] Rule 1001(c)(2) of Regulation SCI, 17 CFR 242.1001(c)(2).

[585] *See* Rule 1002(a) of Regulation SCI, 17 CFR 242.1002(a).

[586] *See* Rule 1002(b) of Regulation SCI, 17 CFR 242.1002(b). For any SCI event that ''has had, or the SCI entity reasonably estimates would have, no or a de minimis impact on the SCI entity's operations or on market participants,'' Rule 1002(b)(5) provides an exception to the general Commission notification requirements under Rule 1002(b). Instead, an SCI entity must make, keep, and preserve records relating to all such SCI events, and submit a quarterly report to the Commission regarding any such events that are systems disruptions or systems intrusions.

[587] *See* Rule 1002(c) of Regulation SCI, 17 CFR 242.1002(c).

[588] *See* Rule 1002(c)(2) of Regulation SCI, 17 CFR 242.1002(c)(2). In addition, the information dissemination requirements of Rule 1002(c) do not apply to SCI events to the extent they relate to market regulation or market surveillance systems, or to any SCI event that has had, or the SCI entity reasonably estimates would have, no or a de minimis impact on the SCI entity's operations or on market participants. *See* Rule 1002(c)(4) of Regulation SCI, 17 CFR 242.1002(c)(4).

[589] *See* Rule 1003(a) of Regulation SCI, 17 CFR 242.1003(a).

[590] *See* Rule 1003(b) of Regulation SCI, 17 CFR 242.1003(b).

[591] *See* Rule 1000 of Regulation SCI, 17 CFR 242.1000. In addition, Rule 1003(b)(1) of Regulation SCI states that penetration test reviews of an SCI entity's network, firewalls, and production systems must be conducted at a frequency of not less than once every three years, and assessments of SCI systems directly supporting market regulation or market surveillance must be conducted at a frequency based upon the risk assessment conducted as part of the SCI review, but in no case less than once every three years. *See* Rule 1003(b)(1)(i)–(ii) of Regulation SCI, 17 CFR 242.1003(b)(1)(i)–(ii).

[592] *See* Rule 1003(b)(2)–(3) of Regulation SCI, 17 CFR 242.1003(b)(2)–(3).

[593] *See* Rule 1004 of Regulation SCI, 17 CFR 242.1004. For a competing consolidator, its designated members or participants generally would include the national securities exchanges that receive its consolidated market data, as well as its other significant subscribers for such data (including, but not limited, to major market data vendors that widely redistribute such data).

[594] *See* Rule 1005 of Regulation SCI, 17 CFR 242.1005. Rule 1005(a) relates to recordkeeping provisions for SCI SROs, whereas Rule 1005(b)

Rule 1006 of Regulation SCI provides for certain requirements relating to the electronic filing, on Form SCI, of any notification, review, description, analysis, or report to the Commission required to be submitted under Regulation SCI.[595] Finally, Rule 1007 of Regulation SCI contains requirements relating to a written undertaking when records required to be filed or kept by an SCI entity under Regulation SCI are prepared or maintained by a service bureau or other recordkeeping service on behalf of the SCI entity.[596]

The Commission requests comment on the proposed inclusion of competing consolidators in Regulation SCI and the related revisions to Rule 1000 of Regulation SCI. In particular, the Commission solicits comment on the following:

117. Do commenters believe that Regulation SCI should apply to competing consolidators? If so, do commenters believe that the proposed revisions to Rule 1000 of Regulation SCI are appropriate? Why or why not? Is there a potential for a systems issue at a competing consolidator to have an adverse impact on the maintenance of fair and orderly markets? If so, what do commenters believe would be the most effective way to mitigate that potential?

118. Do commenters believe that competing consolidators could play a significant role in the U.S. securities markets such that they should be defined as SCI entities? Why or why not? What do commenters believe are the risks related to subscribers associated with systems issues at a competing consolidator? What impact would a systems issue have on the trading of securities and the maintenance of fair and orderly markets? Do commenters believe that all requirements set forth in Regulation SCI should apply to competing consolidators? Why or why not?

119. Unlike other types of SCI entities, ATSs are only subject to Regulation SCI if they meet certain volume thresholds set forth in the definition of ''SCI ATS.'' Do commenters similarly believe there is a threshold size, or a threshold for significant market share, at which Regulation SCI should apply to a competing consolidator? For example, the definition of SCI ATSs contains a two-pronged volume threshold test measured over a ''four out of six-month'' period to determine whether an alternative trading system is subject to Regulation SCI. Would a similar test be appropriate for competing consolidators? If so, what do commenters believe would be an appropriate measurement that should be used for such a test? For example, in the definition of SCI ATS, the NMS stock volume threshold test for inclusion of an alternative trading system in Regulation SCI is one percent (1%) or more of overall volume in NMS stocks during at least four of the preceding six calendar months. Would it, for example, be appropriate for the Commission to apply Regulation SCI to competing consolidators that had one percent (1%) or more of total subscribers of consolidated market data during at least four of the preceding six calendar months? Or, would a different threshold (such as five, ten, or twenty percent) be more appropriate? Why or why not? Please describe. Do commenters believe that another measurement (other than total subscribers of consolidated market data) be more appropriate? If so, what do commenters believe that measurement should be? Please describe.

120. Do commenters believe that only certain provisions of Regulation SCI should apply to competing consolidators? For example, should competing consolidators only be subject to certain aspects of Regulation SCI, such as the policies and procedures required by Rule 1001 of Regulation SCI; the requirement to provide notification of SCI events and to take corrective action as required by Rule 1002 of Regulation SCI; the requirement to conduct SCI reviews as required by Rule 1003 of Regulation SCI; the requirement to perform disaster recovery testing as required by Rule 1004 of Regulation SCI; the requirements related to recordkeeping, as required by Rule 1005 of Regulation SCI; the requirements relating to electronic filing on Form SCI pursuant to Rule 1006 of Regulation SCI; and the requirements relating to service bureaus, as required by Rule 1007 of Regulation SCI? If so, which provisions should apply? Do commenters believe that different or unique requirements should apply to the systems of competing consolidators? What should they be and why?

121. In what instances, if at all, should the systems of competing consolidators be defined as ''critical SCI systems''? Please describe.

122. Which subscribers or types of subscribers should competing consolidators consider as ''designated members or participants'' that should be required to participate in the annual mandatory business continuity and disaster recovery testing? Please describe.

123. Do commenters believe that requiring competing consolidators to be defined as SCI entities would deter parties from registering as competing consolidators? Why or why not?

124. Do commenters believe that competing consolidators should not be defined as SCI entities but should be required to comply with provisions comparable to provisions of Regulation SCI? Why or why not?

125. If commenters believe that competing consolidators should not be defined as SCI entities but should be required to comply with provisions comparable to provisions of Regulation SCI, what provisions should apply? Should competing consolidators be required to have business continuity and disaster plans, to designate subscribers that the competing consolidator determines are necessary for the maintenance of fair and orderly markets in the event of the activation of such plans, to mandate such subscribers' participation in scheduled functional and performance testing of the operation of such plans not less than once every 12 months, and to coordinate testing of such plans on an industry- or sector-wide basis with SCI entities, or otherwise be required to participate in coordinated testing scheduled by SCI entities? Why or why not?

126. Do commenters believe that existing proprietary market data aggregation firms that wish to register as competing consolidators would establish separate legal entities for that purpose? Why or why not?

3. Self-Aggregators

Currently, some broker-dealers effectively act as self-aggregators by purchasing proprietary data products from the exchanges, consolidating that information (either independently or with the use of vendor services and/or hardware), and calculating the NBBO for their own use. Broker-dealers may self-aggregate to eliminate various forms of latency [597] or to access the additional content provided by proprietary data feeds in a consolidated form. This self-aggregated consolidated data may be used for SORs, algorithmic trading systems, alternative trading systems (''ATSs''), visual display, or other uses. While broker-dealers raised concerns about the costs associated with proprietary data products, some have developed these self-aggregation solutions as a means to address the

relates to the recordkeeping provision for SCI entities other than SCI SROs.

[595] *See* Rule 1006 of Regulation SCI, 17 CFR 242.1006.

[596] *See* Rule 1007 of Regulation SCI, 17 CFR 242.1007.

[597] *See supra* Section IV.A for a discussion of geographic, aggregation, and transmission latencies.

latency and content issues that are present with the exclusive SIPs themselves.[598] The Commission preliminarily believes that broker-dealers should be permitted to continue to self-aggregate consolidated market data as proposed to be defined under the proposed decentralized consolidation model. The Commission is concerned that eliminating the ability of broker-dealers to self-aggregate proposed consolidated market data for their own use would be unnecessarily disruptive to the current market data infrastructure landscape.

Accordingly, the Commission proposes to amend Rule 600(b) to add a definition of a self-aggregator. The Commission proposes to define a self-aggregator as ''a broker or dealer that receives information with respect to quotations for and transactions in NMS stocks, including all data necessary to generate consolidated market data, and generates consolidated market data solely for internal use. A self-aggregator may not make consolidated market data, or any subset of consolidated market data, available to any other person.'' In particular, a self-aggregator would collect the NMS information necessary to generate proposed consolidated market data that it needs to trade for its own account or to execute transactions for its customers. A self-aggregator would generate the proposed consolidated market data that it needs for its business, such as calculating current protected bids and offers from each trading center for purposes of Rule 611 and the current best bids and offers from each trading center for achieving and analyzing best execution.[599] The proposed definition would prohibit self-aggregators from disseminating proposed consolidated market data to any person, including a customer or any affiliated entity, as such action would not be for the internal use of a self-aggregator and would be akin to the actions of a competing consolidator, and thus would require registration as a competing consolidator.

Like competing consolidators, a self-aggregator would collect all information with respect to quotations for and transactions in NMS stocks directly from each SRO, but importantly, self-aggregators would not be permitted to re-distribute or re-disseminate proposed consolidated market data to any person, including to any affiliates or subsidiaries. A self-aggregator that re-distributed or re-disseminated proposed consolidated market data, or any subset of proposed consolidated market data, would be performing the functions of a competing consolidator and, accordingly, would be required to register as a competing consolidator. Self-aggregators would establish connectivity to the SROs directly or through the use of a service provider and would either use their own proprietary technology or that of a third party vendor to perform aggregation and any other functions necessary for generating proposed consolidated market data. A vendor providing hardware, software, and/or other services for the purposes of self-aggregation would not be a competing consolidator unless it collected and aggregated proposed consolidated market data in a standardized format within its own facility (*e.g.,* not that of a broker-dealer customer) and resold that configuration of proposed consolidated market data to a customer.

As discussed above, pursuant to Rule 603(b), self-aggregators would receive access from the SROs, either directly or via the use of a vendor, to the data necessary to generate proposed consolidated market data in the same manner and using same methods as other persons, including competing consolidators.[600] A self-aggregator that limits its use of exchange data to the creation of proposed consolidated market data would be charged only for proposed consolidated market data pursuant to the effective national market system plan(s) fee schedules.[601] A self-aggregator that uses an exchange's proprietary data (*e.g.,* full depth of book data) could be charged separately for the proprietary data use pursuant to the individual exchange's fee schedule.[602]

(a) Roundtable Discussion and Comments

Roundtable participants discussed self-aggregation. One panelist described a variation of the self-aggregation alternative that he referred to as the ''one feed-one speed'' model.[603] The panelist suggested that consolidated market data should be made available in a similar manner and using the same framework as the exchanges use to make available their direct proprietary data feeds.[604]

The Commission received one comment letter that supported consideration of a self-aggregation model. The commenter believed that this approach would further the principles of transparency and fairness and ''level the playing field for industry participants.'' [605]

In contrast, the Commission received one comment letter that expressed criticism of a self-aggregation model. The commenter urged against government intervention requiring all market participants to use the same connectivity and the same data, explaining that different customers need different products and that the government should not limit choices ''in this radical manner.'' [606] The commenter also stated that adding multiple consolidators or competing SIPs to the model would magnify risks.[607]

[598] *See, e.g.,* Roundtable Day One Transcript at 198–199 (Joseph Wald, Clearpool) (''Clearpool and other broker-dealers are compelled to purchase exchanges' proprietary data feeds, both to provide competitive execution services to our clients and to meet our best execution obligations due to the content of the information contained in the proprietary data feeds as well as the latency differences between them, which are major and important considerations for brokers.'').

[599] A self-aggregator also would receive from the primary listing exchanges regulatory data (as defined as proposed consolidated market data), which would be necessary for meeting regulatory obligations, such as monitoring Short Sale Circuit Breakers and LULD price bands. *See supra* Section III.D.

[600] *See supra* Section IV.B.1.

[601] *See infra* Section IV.B.4 for a discussion of the effective national market system plan(s). This would apply to proposed consolidated market data provided through an exchange's proprietary data product.

[602] SRO fees for market data other than the proposed consolidated market data would be subject to the rule filing process pursuant to Section 19(b) and Rule 19b–4.

[603] *See* Roundtable Day Two Transcript at 27–29 (Adam Nunes, Hudson River Trading).

[604] *Id.* This panelist also published a note that described the ability of firms and vendors to receive data directly from the exchanges. *See* Adam Nunes, MMI Member Guest Editorial: Speed up the SIP, Modern Markets Initiative (Dec. 22, 2015), *available at https://www.modernmarketsinitiative.org/archive/2018/11/14/mmi-member-guest-editorial-speed-up-the-sip.* In this note, the panelist described a model in which (1) firms would order the SIP data as they do today, by contacting their vendor or the SIP administrator; (2) the firm/vendor connecting to the SIP would get a connection to each exchange to listen to their data where the data is produced (rather than getting the data from a central location); and (3) the firm would receive and process the data similarly to how it handles direct market data feeds.

[605] *See* Letter to Brent J. Fields, Secretary, Commission, from Kirsten Wegner, Chief Executive Officer, Modern Markets Initiative, 5–6 (Oct. 18, 2018) (''Modern Markets Initiative Letter''). One commenter advocated that each exchange should provide a single data feed to market participants (instead of a SIP data feed and proprietary data feeds). The commenter said that a single data feed ''would better serve market participants from the standpoint of equality and fairness.'' However, the commenter also noted that investors would benefit from competition among organizations able to operate as SIPs, either through a bidding process for a centralized SIP or the ability of multiple SIPs to operate (*i.e.,* a competing consolidator model). *See* T. Rowe Price Letter at 3.

[606] *See* Wittman Letter at 15.

[607] *Id.* at 16.

(b) Commission Discussion

The Commission preliminarily believes that the proposed decentralized consolidation model should allow broker-dealers to continue to self-aggregate by collecting and calculating consolidated market data, as proposed, solely for their internal use, in a manner that would allow access to proposed consolidated market data on fair and reasonable terms and without the inefficiencies and added latencies associated with the existing exclusive SIP model.

The proposed decentralized consolidation model is designed to increase, rather than limit, market participants' choices with respect to data products and connectivity. Accordingly, the Commission preliminarily believes that broker-dealers should be able to choose to self-aggregate consolidated market data for their own internal purposes in a similar manner as they may do today with proprietary data. Under the proposed rules, competing consolidators and self-aggregators would be able to select the transmission services that meet the needs of their client or their individual needs, respectively, rather than be restricted to transmission services mandated by the Equity Data Plans. In addition, the proposed rules would allow competing consolidators and self-aggregators to choose to receive exchange data products that include only proposed consolidated market data elements or products that contain both proposed and non-proposed consolidated market data elements (*e.g.,* existing proprietary data products).

As discussed more fully above, the proposed rules would permit the exchanges to offer different connectivity options (*e.g.,* with different latencies, throughput capacities, and data-feed protocols) to market data customers but would require that any options provided to proprietary data customers be available to competing consolidators and self-aggregators in the same manner and using the same methods, including all methods of access and the same format, for the purpose of collecting and consolidating proposed consolidated market data.

Self-aggregators may have a minor latency advantage over market participants that decide to utilize a competing consolidator for their consolidated market data, due to the fact that self-aggregators will be collecting and consolidating this data for themselves rather than relying on a competing consolidator to do so, and therefore would eliminate a potential latency cost that comes with an extra hop within a given data center. The Commission, however, preliminarily believes that the addition of competitive forces with the introduction of competing consolidators should minimize these inherent latencies.[608]

The Commission has not proposed a separate registration requirement for self-aggregators, nor has it proposed to impose the obligations of competing consolidators on self-aggregators. Because self-aggregators will be broker-dealers who are subject to broker-dealer registration requirements, the Commission preliminarily believes that imposing an additional registration requirement and the competing consolidator obligations on self-aggregators would be unnecessary and could result in undue costs and burdens. Further, self-aggregators would be required to calculate and generate proposed consolidated market data, or a component of proposed consolidated market data, to the extent that such information is necessary for the self-aggregator to comply with applicable regulatory requirements. For example, to the extent that a self-aggregator's activities require that self-aggregator to generate the NBBO, the self-aggregator would be required to do so consistent with proposed Rule 600(b)(50). Any self-aggregator that disseminates to any person—including to an affiliate or subsidiary of the self-aggregator—or makes public the proposed consolidated market data, or any subset of the proposed consolidated market data, would be required to register as a competing consolidator.[609]

The Commission requests comment on the proposed amendment to Rule 600(b)(82) to introduce a definition of ''self-aggregator.'' In particular, the Commission solicits comment on the following:

127. Is the definition of self-aggregator as ''a broker or dealer that receives information with respect to quotations for and transactions in NMS stocks, including all information necessary to generate consolidated market data, and generates consolidated market data solely for internal use'' too broad or narrow? Should other entities be included in the definition? Please identify such entities and explain.

128. Are the distinctions between self-aggregators and competing consolidators sufficiently clear? Should any additional clarification be provided to fully distinguish between a vendor that provides self-aggregation services to multiple broker-dealers and competing consolidators that provide aggregated data to multiple broker-dealers? If so, please describe what additional clarification should be provided.

129. Should self-aggregators be subject to a registration requirement? Why or why not?

130. Self-aggregators may have a minor latency advantage over competing consolidators. Please provide comment on this potential latency advantage. Would the latency advantage be material? Are there methods to neutralize any latency advantage between self-aggregators and competing consolidators? If so, should they be instituted?

131. Should self-aggregators be permitted to disseminate proposed consolidated market data to their affiliates and subsidiaries without being required to register as a competing consolidator? Why or why not? Does the restriction on not providing consolidated market data or a subset thereof to customers or affiliates reflect a significant departure from current practices? Please explain.

132. Should any market participants aside from broker-dealers be included in the proposed definition of self-aggregator? Please explain.

4. Amendment to the Effective National Market System Plan(s) for NMS Stocks

An integral part of the national market system is the use of NMS plans. Section 11A(a)(3)(B) of the Exchange Act reflects their importance by providing the Commission the authority to require the SROs, by order, ''to act jointly . . . in planning, developing, operating, or

[608] Some have argued that speed-based competition in modern markets—in particular, the speed advantages of high-frequency traders and practices such as ''latency arbitrage''— impose costs on investors and other market participants. *See, e.g.,* Matteo Aquilina, et al., Quantifying the High-Frequency Trading ''Arms Race'': A Simple New Methodology and Estimates, Financial Conduct Authority (Jan. 2020), *available at https://www.fca.org.uk/publication/occasional-papers/occasional-paper-50.pdf?mod=article_inline.* But *see* Bartlett and McCrary, *supra* note 418. As discussed above, the Commission preliminarily believes that the proposed decentralized consolidation model would reduce latency in the distribution of proposed consolidated market data and speed-based information asymmetries between market participants. *See supra* Section IV.B.

[609] A self-aggregator that provides a software product to other broker-dealers for purposes of allowing such other broker-dealers to self-aggregate SRO data to generate proposed consolidated market data within such other broker-dealers' facilities would not be a competing consolidator because the self-aggregator itself would not be generating consolidated market data for dissemination to such broker-dealers. However, if an entity uses its own software product to aggregate SRO data to generate proposed consolidated market data within the self-aggregator's facilities and thereafter redistributes or disseminates proposed consolidated market data to other broker-dealers or market participants, such entity would be a competing consolidator because it would be generating and disseminating consolidated market data to others.

regulating a national market system (or a subsystem thereof).'' The Equity Data Plans, which are the effective national market system plans for NMS stocks,[610] historically have played an important role in developing, operating, and governing the national market system.[611] The proposed decentralized consolidation model would fundamentally change the national market system and the role of the Equity Data Plans.[612] Under the decentralized consolidation model, the effective national market system plan(s) for NMS stocks, would continue to play an important but modified role in the national market system.[613] Therefore, the Commission is proposing in Rule 614(e) that an amendment to the effective national market system plan(s) be filed with the Commission to conform the plan(s) to the decentralized consolidation model, to address the application of timestamps by the SROs, to require annual assessments of competing consolidators' performance, and to develop a list of the primary listing market for each NMS stock, as discussed below. Proposed Rule 614(e) would require the participants to the effective national market system plan(s) for NMS stocks to submit an amendment pursuant to Rule 608 to conform the plan(s) to the proposed decentralized consolidation model within 60 calendar days from the effective date of Rule 614.

As discussed above, today, the Equity Data Plans operate the exclusive SIPs for the collection, consolidation, and dissemination of SIP data.[614] In the decentralized consolidation model, the effective national market system plan(s) for NMS stocks would no longer be responsible for collecting, consolidating, and disseminating consolidated market data and would no longer operate an exclusive SIP.[615] Instead, the participants of the effective national market system plan(s) for NMS stocks would develop and file with the Commission the fees for SRO data content required to be made available by each SRO to competing consolidators and self-aggregators for the creation of proposed consolidated market data, including fees for SRO market data products that contain all of the components of proposed consolidated market data as well as the fees for market data products that contain only a subset of the components of proposed consolidated market data.[616] The effective national market system plan(s) would also collect fees for the SRO data content used to create the proposed consolidated market data;[617] and allocate the revenues among the SRO participants. The effective national market system plan(s) would also oversee plan accounts and plan audits for purposes of billing, among other things.[618]

Rule 614(e)(1) would direct the participants to file with the Commission an amendment to the effective national market system plan(s) for NMS stocks in order to conform the plan(s) to reflect the proposed consolidated market data and proposed decentralized consolidation model. The Commission preliminarily believes that to conform to the proposed decentralized consolidation model, the effective national market system plan(s) for NMS stocks would need to be amended to reflect the fees for the proposed consolidated market data. The proposed new fees would need to reflect the following: (i) That proposed consolidated market data includes the content described above, including depth of book data, auction information, and additional information on orders of sizes smaller than 100 shares; (ii) that the effective national market system plan(s) for NMS stocks is no longer operating an exclusive SIP and is no longer performing aggregation and other operational functions; and (iii) that the SROs are no longer responsible for the connectivity and transmission services required for providing data to the exclusive SIPs from the SROs' data centers since the exclusive SIPs will no longer be operated by the effective national market system plan(s) for NMS stocks.[619] The proposed new fees for consolidated market data must be fair and reasonable and not unfairly discriminatory.[620] The proposed fees must be submitted by the participants of the effective national market system plan(s) for NMS stocks pursuant to Rule 608 under the Exchange Act. In addition, to conform the effective national market system plan(s) for NMS stocks to the proposed decentralized consolidation model, the amendment to the plan(s) generally should include a harmonized approach to data billing protocols, including with respect to any unified multiple installations, single users (''MISU'') policy.[621]

Proposed Rule 614(e)(1)(ii) would require the participants to file a proposed amendment to the effective national market system plan(s) for NMS stocks to address the application of timestamps by the SRO participants on proposed consolidated market data, including the time the proposed consolidated market data was generated by the SRO participant and the time the SRO participant made the proposed consolidated market data available to competing consolidators and self-aggregators. Timestamping should provide incentives for the SROs to generate and disseminate proposed consolidated market data as quickly as possible. Further, the Commission preliminarily believes that the application of timestamps will be an important part of market participants' ability to measure latency and to seek to ensure accurate sequencing of data in the new national market system, and therefore the application of timestamps should be consistent and reliable.[622]

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[610] *See* Proposed Governance Order, *supra* note 8.

[611] *See supra* Section II.A.

[612] *Id.*

[613] Pursuant to the proposed amendments to Rule 603(b), proposed consolidated market data would be collected, consolidated, and disseminated pursuant to an effective national market system plan.

[614] *See supra* Section II.A.

[615] The Commission preliminarily believes that the operators of the existing exclusive SIPs may choose to become competing consolidators. *See infra* Section IV.B.6.

[616] For example, the operating committee of the effective national market system plan(s) could develop different pricing for a TOB product that includes only certain SRO data content used to create proposed consolidated market data. *See supra* note 316 and accompanying text. *See also* NYSE Sharing Data-Driven Insights—Stock Quotes and Trade Data: One Size Doesn't Fit All (Aug. 22, 2019), *available at https://www.nyse.com/equities-insights#20190822* (proposing to replace the exclusive SIP feeds with three tiered levels of service, including certain DOB data, based on the needs of specific types of investors). Nothing in this proposal would prevent the operating committee of the effective national market system plan(s) from structuring the sale of data in a similar manner.

[617] *See supra* Section IV.B.1.

[618] The effective national market system plan(s) for NMS stocks would review the performance of competing consolidators. *See infra* discussion on proposed Rule 614(e) (1)(iii).

[619] As noted above, pursuant to proposed Rule 603(b), each SRO must provide its NMS information, including all data necessary to generate proposed consolidated market data, to all competing consolidators and self-aggregators in the same manner and using the same methods, including all methods of access and the same format, as such SRO makes available any information to any other person. The competing consolidators and self-aggregators will be responsible for establishing the connectivity and transmission services they use to connect to the SROs.

[620] *See* Rule 603(a) of Regulation NMS, 17 CFR 242.603(a).

[621] MISU policies seek to ensure that a single device fee is applied to a data user that receives consolidated market data on multiple display devices. *See, e.g.,* CTA, CTA Multiple Installations for Single Users (MISU) Policy (Apr. 2016), *available at https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/Policy%20-%20MISU%20with%20FAQ.pdf.* MISU policies would need to be conformed in the proposed decentralized consolidation model to reflect that consolidated market data users may seek to receive through more than one competing consolidator and/or access through multiple devices.

[622] SRO timestamps would also assist market participants in their ability to assess latencies in the

The Commission understands that the SROs currently submit timestamped data under the SIP plans [623] and the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'').[624]

Proposed Rule 614(e)(1)(iii) would require the participants to file a proposed amendment to the effective national market system plan(s) for NMS stocks to reflect that the participants would need to conduct an annual assessment of the overall performance of competing consolidators, including speed, reliability, and cost of data provision and provide the Commission with a report of such assessment on an annual basis. As noted above, the Equity Data Plans play an important role in governing the operation of the national market system. The Commission preliminarily believes that the effective national market system plan(s) for NMS stocks should continue in this important role by monitoring the overall performance of competing consolidators to seek to ensure that the decentralized consolidation model is operating soundly. To aid the Commission's monitoring, the Commission is requiring the effective national market system plan(s) for NMS stocks to provide assessments in key factors of competing consolidators, including: Speed of the competing consolidators in receiving, calculating, and disseminating proposed consolidated market data; the reliability of the transmission of proposed consolidated market data; and a detailed cost analysis of the provision of proposed consolidated market data. The effective national market system plan(s) would base their assessments on publicly available information about the competing consolidators, including the information that each competing consolidator would be required to make available under proposed Rule 614.

Finally, proposed Rule 614(e)(1)(iv) would require the participants to file an amendment to the effective national market system plan(s) for NMS stocks to include a list that identifies the primary listing exchange for each NMS stock. As discussed above, primary listing exchanges will be required to collect, calculate, and provide the data included in the proposed definition of ''regulatory data'' to competing consolidators and self-aggregators. Moreover, the Commission is proposing to define ''primary listing exchange'' in proposed Rule 600(b)(67) as ''for each NMS stock, the national securities exchange identified as the primary listing exchange in the effective national market system plan or plans required under § 242.603(b).'' The effective national market system plan(s) for NMS stocks must accordingly be amended to include this list so that the primary listing exchange for each NMS stock—and the responsibilities regarding the collection, calculation, and provision of regulatory data—are clear. The Commission preliminarily believes that information regarding the primary listing exchange for each NMS stock is readily accessible and that the operating committee of the effective national market system plan(s) for NMS stock, which will have representation from each primary listing exchange, is well-situated to include such a list in a plan amendment.

The Commission requests comment on proposed Rule 614(e). In particular, the Commission solicits comment on the following:

133. Do the proposed amendments to the effective national market system plan(s) for NMS stocks reflect an appropriate role for the NMS plan(s) under the proposed decentralized consolidation model?

134. Should the rule include other provisions that should be included in an amendment to the effective national market system plan(s) for NMS stocks? Please describe.

135. Should the rule require an amendment to the effective national market system plan(s) for NMS stocks to include plan provisions related to the development by competing consolidators of non-core market data products (*i.e.,* a full depth of book product)? Why or why not?

136. Should the rule require an amendment to the effective national market system plan(s) to require the operating committee of such plan(s) to develop latency statistics based on the SRO timestamps and make them publicly available?

137. Do commenters believe that the proposed timestamps are sufficiently comprehensive? Should the Commission require other timestamps to be added by the SROs, or should any of the proposed requirements for the timestamps be pared down or removed? Please explain.

138. Should the rule require an amendment to the effective national market system plan(s) for NMS stocks to specify a method for synchronizing clocks on the various systems and networks utilized in the provision of proposed consolidated market data? If yes, what is the appropriate method or protocol (*e.g.,* Precision Time Protocol vs. Network Time Protocol)? Or should the requirement for clock synchronization be performance based (*i.e.,* accurate to less than one microsecond)? If so, what is the appropriate standard for maximum allowable clock drift? Please explain. Should the SROs be required to publish clock drift statistics?

139. Do commenters believe that there are other measures to assess the performance of competing consolidators that should be included in the annual report? Please explain.

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provision of proposed consolidated market data. Under proposed Rule 614(d)(3), competing consolidators would have to make available consolidated market data that includes timestamps assigned by the SROs as well as competing consolidators. *See supra* Section IV.B.2(e)(ii) and the discussion of proposed Rule 614(d)(4).

[623] *See, e.g.,* CTA Plan, *supra* note 13, at Section VI.(c); Nasdaq UTP Plan, *supra* note 13, at Section VIII.

[624] *See* CAT NMS Plan at Sections 6.3(d), 6.8. As required by Rule 613, the CAT NMS Plan was filed with the Commission by the national securities exchanges and national securities associations, who include BATS Exchange, Inc. (n/k/a Cboe BZX Exchange, Inc.), BATS–Y Exchange, Inc. (n/k/a Cboe BYX Exchange, Inc.), BOX Exchange LLC, C2 Options Exchange, Incorporated (n/k/a Cboe C2 Exchange, Inc.), Chicago Board Options Exchange, Incorporated (n/k/a Cboe Exchange, Inc.), Chicago Stock Exchange, Inc. (n/k/a NYSE Chicago, Inc.), EDGA Exchange, Inc. (n/k/a Cboe EDGA Exchange, Inc.), EDGX Exchange, Inc. (n/k/a Cboe EDGX Exchange, Inc.), Financial Industry Regulatory Authority, Inc. (''FINRA''), International Securities Exchange, LLC (n/k/a Nasdaq ISE, LLC), ISE Gemini, LLC (n/k/a Nasdaq GEMX, LLC), Miami International Securities Exchange LLC, NASDAQ OMX BX, Inc. (n/k/a Nasdaq BX, Inc.), NASDAQ OMX PHLX LLC (n/k/a Nasdaq PHLX LLC), The Nasdaq Stock Market LLC, National Stock Exchange, Inc. (n/k/a NYSE National, Inc.), New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. *See* 17 CFR 242.613; Securities Exchange Act Release No. 78318 (Nov. 15, 2016), 81 FR 84696, (Nov. 23, 2016) (''CAT NMS Plan Approval Order''). The CAT NMS Plan is Exhibit A to the CAT NMS Plan Approval Order. *See* CAT NMS Plan Approval Order, at 84943–85034. In approving the CAT NMS Plan, the Commission added ISE Mercury, LLC (n/k/a Nasdaq MRX, LLC) and Investors' Exchange LLC as Participants to the CAT NMS Plan. *See id.* at 84728. On January 30, 2017 and March 1, 2019, the Commission noticed for immediate effectiveness amendments to the CAT NMS Plan to add MIAX PEARL, LLC and MIAX Emerald, LLC, respectively, as Participants. *See* Securities Exchange Act Release Nos. 79898 (Jan. 30, 2017), 82 FR 9250 (Feb. 3, 2017), and 85230 (Mar. 1, 2019), 84 FR 8356 (Mar. 7, 2019). On November 27, 2019, the Commission noticed for immediate effectiveness amendments to the CAT NMS Plan to add Long-Term Stock Exchange, Inc. as a Participant. *See* Securities Exchange Act Release No. 87595 (Nov. 22, 2019), 84 FR 65447 (Nov. 27, 2019). The CAT NMS Plan functions as the limited liability company agreement of the jointly owned limited liability company formed under Delaware state law through which the Participants conduct the activities of the CAT (the ''Company''). Each Participant is a member of the Company and jointly owns the Company on an equal basis. The Participants submitted to the Commission a proposed amendment to the CAT NMS Plan on August 29, 2019, which they designated as effective on filing. Under the amendment, the limited liability company agreement of a new limited liability company named Consolidated Audit Trail, LLC serves as the CAT NMS Plan, replacing in its entirety the CAT NMS Plan. *See* Securities Exchange Act Release No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

140. Do commenters believe that a portion of the assessment or the full assessment should be made public? Do commenters believe that a portion of the annual report or the full annual report to the Commission should be made public? Why or why not? Please explain.

141. Do commenters believe that the operating committee for the effective national market system plan(s) for NMS stocks should conduct an assessment and provide the Commission with a report more frequently than annually, or at all? Please describe any alternative frequency and the rationale.

142. Do commenters believe that a similar report should be generated for self-aggregators? If so, please explain. Should self-aggregators be required to publish any performance statistics publicly or to the Commission?

143. Do commenters believe that the effective national market system plan(s) for NMS stocks should be amended to include a list that identifies the primary listing exchange for each NMS stock? Please explain. Are there alternative ways to ensure that the primary listing exchange for each NMS stock is clearly identified? Please explain.

144. Do commenters believe that the effective national market system plan(s) for NMS stocks should include fees for different types of proposed consolidated market data products, such as products that contain only a subset of proposed core data elements (*e.g.,* a TOB product)? If so, what products should be included?

5. Effects on the National Market System Plan Governing the Consolidated Audit Trail

The CAT NMS Plan requires the Central Repository [625] to ''collect (from a SIP [626] or pursuant to an NMS Plan [627]) and retain on a current and continuing basis . . . all data, including the following (collectively, 'SIP Data').'' [628] The Commission preliminarily believes that this provision of the CAT NMS Plan will be affected by the proposed decentralized consolidation model and the proposed definition of consolidated market data. Rule 603(b), as proposed to be amended, would require the national securities exchanges and associations to distribute consolidated market data ''pursuant to one or more effective national market system plans.'' Under Section 6.5(a)(ii) of the CAT NMS Plan, the Central Repository must collect and retain ''all data'' from ''a SIP or pursuant to an NMS Plan,'' so the Central Repository would be required to collect and retain consolidated market data.

Because proposed consolidated market data would include information beyond the data that is currently disseminated by the exclusive SIPs, such as smaller-sized orders in higher-priced stocks pursuant to the proposed definition of round lot, proposed depth of book data, and proposed auction information, the scope of the consolidated data collected and retained by the CAT Central Repository would be expanded. In addition, the Central Repository may have to obtain the data from a different source. The Commission preliminarily believes that having the Central Repository collect an expanded set of data from a different source and retain this data in the Central Repository are appropriate to further the objectives of CAT by enabling regulators to use the expanded set of data ''solely for surveillance and regulatory purposes.'' [629]

The Commission requests comment on the effects of the proposed decentralized consolidation model and the proposed definition of consolidated market data on the CAT. In particular, the Commission solicits comment on the following:

145. Do commenters believe that CAT should receive consolidated market data from one competing consolidator, all competing consolidators, or some specific subset of competing consolidators? Please explain.

146. Do commenters believe the selection by the CAT of a competing consolidator could have a competitive impact on other competing consolidators? Please explain.

6. Transition Period

A transition period would be necessary to implement the decentralized consolidation model. While SROs would be permitted to make the data necessary to generate consolidated market data, as proposed to be defined, available to competing consolidators and self-aggregators using their existing data feeds, SROs may also choose to provide this data through new, separate feeds,[630] which would require development time. Furthermore, the proposed requirements related to the provision by SROs of regulatory data to competing consolidators and self-aggregators would require SROs to make adjustments to their data collection and processing systems and procedures to integrate the proposed regulatory data elements into new or existing data feeds.[631] In addition, firms intending to act as competing consolidators or self-aggregators will need to register, develop or modify systems, establish pricing, and make other preparations needed to function as competing consolidators or self-aggregators. Finally, market participants would be expected to need some period of time for implementation and testing of any new data feeds. As these changes are being implemented, market participants will continue to need a consistent and reliable source of consolidated market data.

Accordingly, the Commission preliminarily believes that the existing exclusive SIPs should continue their operations until such time as the Commission considers and approves an NMS plan amendment that would effectuate a cessation of their operations as exclusive SIPs. In considering and approving such an NMS plan amendment, the Commission preliminarily believes that it would need to consider the operational readiness of competing consolidators and self-aggregators to determine whether market participants are fully able to receive proposed consolidated market data in a manner that is sufficiently prompt, accurate, and reliable.[632] The Commission preliminarily believes that sufficient operational readiness would only be achieved once consolidated market data generated under the decentralized consolidation model is demonstrably capable of supporting the various needs of users of consolidated market data, including needs for visual display, trading activities, and compliance with

[625] The CAT NMS Plan defines ''Central Repository'' as ''the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and this Agreement.'' CAT NMS Plan, *supra* note 624, at Section 1.1.

[626] The CAT NMS Plan defines ''Securities Information Processor'' or ''SIP'' as having ''the same meaning provided in Section 3(a)(22)(A) of the Exchange Act.'' *Id.* at Section 1.1.

[627] The CAT NMS Plan defines ''NMS Plan'' as having ''the same meaning as 'National Market System Plan' provided in SEC Rule 613(a)(1) and SEC Rule 600(b)(43).'' *Id.* at Section 1.1.

[628] *Id.* at Section 6.5(a)(ii). Section 6.5(a)(ii) specifically enumerates the following ''SIP Data'' elements: ''(A) Information, including the size and quote condition, on quotes including the National Best Bid and National Best Offer for each NMS Security; (B) Last Sale Reports and transaction reports reported pursuant to an effective transaction reporting plan filed with the SEC pursuant to, and meeting the requirements of, SEC Rules 601 and 608; (C) trading halts, Limit Up/Limit Down price bands, and Limit Up/Limit Down indicators; and (D) summary data or reports described in the specifications for each of the SIPs and disseminated by the respective SIP.'' *Id.*

[629] *See* CAT NMS Plan, *supra* note 624, at Section 6.5(g); *infra* Section VI.C.4(c).

[630] *See supra* Section IV.B.1.

[631] *See supra* Section III.D.

[632] Section 11A(c)(1)(B) of the Exchange Act, 15 U.S.C. 78k–1(c)(1)(B).

regulatory obligations, such as under Rules 603(c) and Rule 611 under Regulation NMS and best execution. In determining whether to approve an NMS plan amendment to effectuate the cessation of the operations of the existing exclusive SIPs and whether it meets the standards set forth in Rule 608(b)(2),[633] the Commission would consider the state of the market and the general readiness of the competing consolidator infrastructure. Examples of some of the things that the Commission could consider include, among other things: The status of registration, testing, and operational capabilities of multiple competing consolidators, self-aggregators, and market participants; capabilities of competing consolidators to provide monthly performance metrics and other data required to be published pursuant to proposed Rule 614(d)(5)–(6);[634] and the consolidated market data products offered by competing consolidators. The Commission preliminarily believes that consideration of these and other factors should help to ensure that market participants have effective and continuous access to proposed consolidated market data and other market data products during the transition period and prior to the cessation of operations of the existing exclusive SIPs.

The Commission anticipates that the operators of the existing exclusive SIPs may choose to become competing consolidators and that they too may need to make additional investments and operational changes during this transition period to provide a competitive competing consolidator service.[635] The Commission preliminarily believes that the existing exclusive SIPs should have the ability to pursue such development while continuing concurrent operations of existing SIPs. Given their experience operating the exclusive SIPs, the exclusive SIP operators would likely be able to enter the competing consolidator business from a competitively strong position relative to other potential competing consolidators.

The Commission requests comment on the proposed transition period to implement the decentralized consolidation model. In particular, the Commission solicits comment on the following:

147. What period of time should be expected for SROs to make any changes necessary to provide the data necessary to generate proposed consolidated market data to competing consolidators and self-aggregators?

148. What period of time should be expected for broker-dealers to make any changes necessary, including testing, to utilize the new data feeds in a manner that is not disruptive to their trading practices and their ability to meet their regulatory obligations?

149. What other factors should be taken into consideration to allow for a smooth transition from a centralized, exclusive SIP model to a competitive, decentralized consolidation model?

150. What should the Commission take into consideration in determining whether the availability of proposed consolidated market data from competing consolidators, or any other aspect of the development or implementation of the proposed decentralized consolidation model, is sufficient to allow for the cessation of the existing exclusive SIPs?

151. Should the Commission require the operation of a certain number of competing consolidators before allowing the exclusive SIPs to cease operations? Why or why not? If so, how many competing consolidators should be operational before allowing exclusive SIPs to cease operations? Please explain.

152. How long do commenters think such an implementation period should be? Please explain your answer.

C. Alternatives to the Centralized Consolidation Model

Several alternative approaches to the centralized consolidation model were suggested by Roundtable respondents and separately by several exchanges. These suggestions include the distributed SIP model, a single SIP for all exchange-listed securities, and a low-latency dedicated connection to existing exclusive SIP feeds.

1. Distributed SIP Alternative

A distributed SIP alternative has been suggested as one possible means to reduce geographic latency.[636] Specifically, under a distributed SIP alternative, each exclusive SIP would place an additional processor in other major data centers, where the additional processor would separately aggregate and disseminate consolidated market data for its respective tape. The SROs would submit their quotations and trade information directly to each instance of the exclusive SIP in each data center, and each exclusive SIP instance would consolidate and disseminate its respective consolidated market data feeds to subscribers at those data centers, thereby eliminating geographic latency. Under the distributed SIP alternative, consolidated market data would not have to travel from an exchange at one location to an exclusive SIP at a second location for consolidation and dissemination prior to traveling yet again to a subscriber that may be at a third location.[637]

(a) Comments and Roundtable Discussion

The distributed SIP model was suggested and discussed at the Roundtable by certain panelists and commenters. One panelist who presented on the distributed SIP model argued that it would be the least burdensome approach for the industry to reduce delays,[638] explaining that firms could consume data under the current structure without having to make any changes if they did not have sub-millisecond latency concerns, while those firms for which geographic latency is critical could choose to consume data at the nearest SIP instance.[639]

Two other panelists expressed interest in considering the distributed SIP model.[640] One panelist said that the

[633] *See* 17 CFR 242.608(b)(2) (providing that the Commission shall approve an NMS plan amendment ''if it finds that such plan or amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.'').

[634] *See supra* Section IV.B.2(b).

[635] The exclusive SIPs may choose to utilize existing proprietary data feeds for the provision of consolidated market data. They may also choose to develop a business to support self-aggregation by broker-dealers.

[636] *See supra* notes 492–493 and accompanying text; Cboe Report, *supra* note 186, at 3–4 (recommending the creation of distributed SIPs in different geographic locations).

[637] One commenter noted that the distributed SIP alternative could address the issue of geographic latency. *See* SIFMA Letter II at 3.

[638] *See* Roundtable Day Two Transcript at 17 (Michael Blaugrund, NYSE).

[639] *See* Roundtable Day Two Transcript at 18 (Michael Blaugrund, NYSE). This panelist also believed that the distributed SIP model would not require changes to Rule 603(b) of Regulation NMS, which requires the dissemination of consolidated information for an individual NMS stock through a single plan processor. The panelist stated that the existing SIPs would remain under the distributed SIP model, only with additional processors. *See* Roundtable Day Two Transcript at 19–20 (Michael Blaugrund, NYSE).

[640] *See, e.g.,* Roundtable Day One Transcript at 227–228 (Chris Issacson, Cboe) (''[W]e're open to discussion about distributed SIPs.''); at 98–99 (Stacey Cunningham, NYSE) (''. . . there is debate the NYSE brought to the SIP Committee a long time ago to talk about the nature of a distributed SIP and that is something we should explore.''); Roundtable Day Two Transcript at 17 (Michael Blaugrund, NYSE) (''. . . we think that a distributed SIP implementation of the existing processors would be the simplest, least costly approach for the industry to minimize delays when consolidated data and

Continued

distributed SIP model could address the latencies of the current centralized consolidation model.[641] Another panelist suggested that a distributed SIP model with enhanced content, such as auction imbalance and depth of book information, would be useful[642] and that even a fiber optics connection could be sufficient for a distributed SIP model since the consolidated market data would no longer have to travel throughout the various data centers for collection and distribution.[643]

Three panelists were skeptical about the value of the distributed SIP model. One panelist described the distributed SIP model as better than the current SIP system, ''but just less worse than direct feeds,''[644] and said what is desired instead is an exclusive SIP that is as fast as the direct feeds.[645] Another panelist said that, with the distributed SIP model, determining the appropriate instance of the SIP locations would be complicated.[646]

One commenter submitted two comment letters that discussed the distributed SIP model. One letter urged the Commission to do a cost benefit analysis of efforts to decentralize the SIP architecture and recommended introducing additional instances of existing technology as the best approach to reducing geographic latency.[647] The other letter noted questions about which SIP location would be responsible for regulatory messages, such as for LULD and MWCBs, and whether the costs for the industry to connect to this infrastructure would outweigh the benefits.[648]

Another commenter stated that the distributed SIP alternative would introduce new and expensive operational complexities, legal and regulatory questions, and possible unintended consequences. This commenter also questioned whether the distributed SIP alternative would resolve concerns regarding geographic latency and noted that the NBBO could differ among the distributed SIPs, leading to operational and compliance questions.[649]

(b) Commission Discussion

The Commission preliminarily believes that a distributed SIP model could address the geographic latencies that exist in the current centralized consolidation model but is concerned that the distributed SIP model has certain fundamental shortcomings that make it a less desirable option compared to the proposed competitive, decentralized consolidation model. In particular, the distributed SIP model does not allow for the introduction of competitive forces and continues to allow for one exclusive SIP to have exclusive rights for the dissemination of market data for the NMS stocks on a given consolidated tape. Because the distributed SIP model does not introduce competitive forces, it is less likely to adequately address the broader array of latencies and competitive product and service offerings.

In addition, insofar as the distributed SIP model does not allow for the provision of all three consolidated tapes to be consolidated and disseminated from a single entity, it retains the inefficiencies that would not apply to a competing consolidator model, such as the need for end-users to obtain data from multiple SIPs.[650]

As a result, the Commission preliminarily believes that, since the distributed SIP model could result in significant additional costs and complexity and would not be likely to competitively address all forms of content and latency differentials, the Commission preliminarily believes that the distributed SIP model is not the optimal solution for the provision of consolidated market data.

The Commission requests comment on the distributed SIP alternative. In particular, the Commission solicits comment on the following:

153. Is the distributed SIP alternative a viable or superior alternative to the proposed competing consolidator and self-aggregator model? If so, please describe the benefits of the distributed SIP model and why that model is the preferred alternative.

2. Single SIP Alternative

Another suggestion to modify the centralized consolidation model to address latency concerns was to combine the exclusive SIPs into a single exclusive SIP for all exchange-listed securities.[651] Comments noted that such a change would permit the harmonization of exclusive SIP infrastructure[652] and narrow the latency difference between the exclusive SIPs and proprietary data feeds.[653] One commenter thought this alternative would be a low cost alternative.[654]

In light of the fact that the Nasdaq UTP SIP has less latency that the CTA/CQ SIP, within the current exclusive and centralized exclusive SIP model, this solution has certain merits. It could allow for an upgrade to existing processor technology for the CTA/CQ SIP, which continues to lag the performance of the Nasdaq UTP SIP. It could also eliminate certain inefficiencies in having two separate exclusive SIPs for SIP data. Potentially having a single administrator and exclusive SIP could ease these burdens and introduce benefits such as a less complex infrastructure and greater standardization.

However, this alternative has certain key shortcomings. For one thing, it does not attempt to introduce competitive forces, and, therefore, as with the distributed SIP alternative, would not necessarily be expected to fully address all forms of latency in a competitive data environment. Further, it does not attempt to address geographic latency, which, as noted, is believed to be the most significant source of latency undermining the viability of the current centralized exclusive SIP model.

The Commission requests comment on these alternative approaches to the current centralized consolidation

single market proprietary data are received in distant data centers.'').

[641] *See* Roundtable Day One Transcript at 231–232 (Vlad Khandros, UBS).

[642] *See* Roundtable Day One Transcript at 225 (Ronan Ryan, IEX).

[643] *See* Roundtable Day One Transcript at 229–230 (Ronan Ryan, IEX). This is a reference to the understanding that a distributed SIP model would solve for geographic latency.

[644] *See* Roundtable Day Two Transcript at 27 (Adam Nunes, Hudson River Trading).

[645] *Id.*

[646] *See* Roundtable Day One Transcript at 151–152 (Oliver Albers, Nasdaq).

[647] *See* Blaugrund Letter at 4. The Blaugrund Letter was submitted on behalf of NYSE.

[648] *See* NYSE Group Letter at 10.

[649] *See* Albers Letter at 3; Wittman Letter at 14. The Albers and Wittman Letters were submitted on behalf of Nasdaq. The commenter also believed that significant advances in clock synchronization techniques would be necessary. *See* Wittman Letter at 14. This commenter later expressed support for the distributed SIP model, stating that the approach could reduce data transmission time for some market participants between 400 and 750 microseconds. *See* Nasdaq Total Markets Report, *supra* note 127, at 19–20; Remarks by Tal Cohen, Nasdaq, Meeting of the Securities and Exchange Commission Investor Advisory Committee, at 50 (''[R]ecognizing the industry's desire for a distributed SIP, we support this in concept to ensure geographic latency concerns are addressed.'').

[650] Since 2017, a distributed SIP subcommittee created by the CTA and Nasdaq UTP Plan operating committees has considered and continues to consider implementation of a distributed SIP model to address geographic latencies. *See* CTA and UTP Annual Letter, *supra* note 181, at 1–2.

[651] *See* Nasdaq Total Markets Report, *supra* note 127, at 21; SIFMA Letter II at 3. This suggestion would apply the centralized consolidation structure.

[652] *See* Nasdaq Total Markets Report, *supra* note 127, at 21.

[653] *See* SIFMA Letter II at 3. The commenter did not elaborate on how this model could address latency issues. This commenter, however, noted that the use of competing consolidators would best resolve the latency issues because competition would provide the incentives for improvements.

[654] *Id.*

model. In particular, the Commission solicits comment on the following:

154. Is the single exclusive SIP alternative a viable alternative to addressing the concerns with the current centralized consolidation model? If so, please describe the operation of the single exclusive SIP alternative and how it would address the latency and cost concerns arising from the centralized consolidation model. Are there any other viable alternatives?

155. Do commenters believe that the single centralized exclusive SIP model could be a viable solution despite the fact that it would not introduce competitive forces into the provision of consolidated data and would not address geographic latency? If so, please describe any factors that make this solution as good as or better than the proposed decentralized model.

V. Paperwork Reduction Act

Certain provisions of the proposed rules and proposed rule amendments contain ''collection of information requirements'' within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[655] The Commission is submitting these collections of information to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title of the new collection of information is ''Market Data Infrastructure and Form CC.'' Further, the title of the existing collection of information for Regulation SCI is ''Regulation SCI, Form SCI,'' OMB Control No. 3235–0703.[656] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a currently valid control number.

A. Summary of Collection of Information

The proposed rules and rule amendments would include a collection of information within the meaning of the PRA for competing consolidators who would be required to comply with the provisions of Rule 614 and file a Form CC with the Commission. In addition, SROs would be required to collect information that they would then have to provide to competing consolidators and self-aggregators for the purposes to generating proposed consolidated market data. Finally, the SROs would be required to amend the effective national market system plan(s) required under Rule 603(b).

1. Registration Requirements and Form CC

Proposed Rule 614(a)(1)(i) would require each competing consolidator to register with the Commission by filing Form CC electronically in accordance with the instructions contained on the form.[657] To file a form CC, a competing consolidator would need to access the Commission's EFFS, a secure website operated by the Commission. Each competing consolidator would have to submit an application and register each individual who would access the EFFS system on behalf of the competing consolidator. Proposed Rule 614(a)(1)(ii) would require any reports required under proposed Rule 614 to be filed electronically on Form CC, include all of the information as prescribed in Form CC and contain an electronic signature. Proposed Rule 614(a)(1)(iv) would require a competing consolidator to withdraw an initial Form CC during its review by the Commission if information on the initial Form CC is or becomes inaccurate or incomplete. Under proposed Rule 614(a)(2)(i), a competing consolidator would be required to amend an effective Form CC in accordance with the instructions therein: (i) Prior to the implementation of a material change to pricing, connectivity or products offered; and (ii) no later than 30 calendar days after the end of each calendar year to correct information that has become inaccurate or incomplete for any reason. Proposed Rule 614(a)(3) would require a competing consolidator to provide notice of its cessation of operations on Form CC at least 30 business days before the date the competing consolidator ceases to operate as a competing consolidator.

2. Competing Consolidator Duties and Data Collection

Proposed Rules 614(d)(1)–(4) would require each competing consolidator to: (1) Collect from each national securities exchange and national securities association, either directly or indirectly, the information with respect to quotations for and transactions in NMS stocks as provided in Rule 603(b); (2) calculate and generate consolidated market data as defined in proposed Rule 600(b)(19) from the information collected pursuant proposed Rule 614(d)(1); (3) make consolidated market data, as defined in proposed Rule 600(b)(19), and as timestamped as required by proposed Rule 614(d)(4) and including the SRO data generation timestamp required to be provided by the SROs by proposed Rule 614(e)(1)(ii), available to subscribers on a consolidated basis on terms that are not unreasonably discriminatory; and (4) timestamp the information collected pursuant to proposed Rule 614(d)(1): (i) Upon receipt from each national securities exchange and national securities association; (ii) upon receipt of such information at its aggregation mechanism; and (iii) upon dissemination of consolidated market data, as defined in proposed Rule 600(b)(19), to customers. Proposed Rule 614(c) would require each competing consolidator to make public on its website a direct URL hyperlink to the Commission's website that contains each effective initial Form CC, as amended, order of ineffective initial Form CC, and Form CC amendment to an effective Form CC.

3. Recordkeeping

Proposed Rule 614(d)(7) would require each competing consolidator to keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts and such other records as shall be made or received by it in the course of its business as such and in the conduct of its business. The proposed rule would require competing consolidators to keep these documents for a period of no less than five years, the first two years in an easily accessible place. Proposed Rule 614(d)(8) would require each competing consolidator, upon request of any representative of the Commission, to promptly furnish to such representative copies of any documents required to be kept and preserved by it.

4. Reports and Reviews

Proposed Rule 614(d)(5) would require each competing consolidator, within 15 calendar days after the end of each month, to publish prominently on its website monthly performance metrics, as defined by the effective national market system plan(s) for NMS stocks, that shall include at least the following: (i) Capacity statistics; (ii)

[655] 44 U.S.C. 3501 *et seq.*

[656] As discussed below, the proposed modifications to Regulation SCI contain ''collection of information requirements'' within the meaning of the PRA. *See infra* Section V.G. Further, as discussed above, the proposed definition of round lot would affect Rule 606(b)(3) by requiring actionable indications of interest to be in the proposed round lot sizes and included in 606(b)(3) reports. The Commission preliminarily believes that the PRA estimates set forth in the Rule 606 Adopting Release would cover the collection of actionable indications of interest in the proposed round lot sizes because there should only be minor systems updates to reflect the new round lot sizes. *See* Rule 606 Adopting Release, *supra* note 227.

[657] As explained above, SROs that wish to act as competing consolidators would not be required to register with the Commission on Form CC. *See supra* note 537.

message rate and total statistics; (iii) system availability; (iv) network delay statistics; (v) latency statistics for the following, with distribution statistics up to the 99.99th percentile: (A) When a national securities exchange or national securities association sends an inbound message to a competing consolidator network and when the competing consolidator network receives the inbound message; (B) when the competing consolidator network receives the inbound message and when the competing consolidator network sends the corresponding consolidated message to a subscriber; and (C) when a national securities exchange or national securities association sends an inbound message to a competing consolidator network and when the competing consolidator network sends the corresponding consolidated message to a subscriber. All information posted pursuant to proposed Rule 614(d)(5) must be publicly posted in downloadable files and must remain free and accessible (without any encumbrances or restrictions) by the general public on the website for a period of not less than three years from the initial date of posting.

Proposed Rule 614(d)(6) would require a competing consolidator, within 15 calendar days after the end of each month, to publish prominently on its website the following information: (i) Data quality issues; (ii) system issues; (iii) any clock synchronization protocol utilized; (iv) for the clocks used to generate the timestamps described in proposed Rule 614(d)(4), the clock drift averages and peaks, and the number of instances of clock drift greater than 100 microseconds; and (v) vendor alerts. All information posted pursuant to proposed Rule 614(d)(6) must be publicly posted and must remain free and accessible (without any encumbrances or restrictions) by the general public on the website for a period of not less than three years from the initial date of posting.

5. Amendment to the Effective National Market System Plan(s) for NMS Stocks

As detailed above, proposed Rule 614(e)(1) would direct the participants to the effective national market system plan(s) for NMS stocks to submit an amendment to such plan(s) within 60 days of the effectiveness of the proposed rule that would address several articulated provisions. In particular, proposed Rule 614(e)(1)(i) would require that the amendment conform the plan(s) to reflect the provision of market data that is necessary to generate consolidated market data, as defined in proposed Rule 600(b)(19), by the SRO participants to competing consolidators and self-aggregators, and the role that the plan(s) would have in developing fees for consolidated market data and defining the monthly performance metrics that competing consolidators would be required to publish.[658] Proposed Rule 614(e)(1)(ii) would require that the participants to the effective national market system plan(s) for NMS stocks file an amendment that contains provisions regarding the application of timestamps by the SRO participants on all consolidated market data, as defined in proposed Rule 600(b)(19), and that such time stamps be attached at the time the data was generated by the SRO and the time that the SRO made the proposed consolidated market data available to competing consolidators and self-aggregators. The participants to the effective national market system plan(s) for NMS stocks would be required to file an amendment that includes provisions relating to assessments of competing consolidator performance that would include the speed, reliability and cost of data provision and the provision of an annual report of such assessment to the Commission. Finally, participants to the effective national market system plan(s) for NMS stocks would be required to file an amendment to identify the primary listing market for each NMS stock.

Proposed Rule 614(e) would impose paperwork burdens on the participants to the effective national market system plan(s) for NMS stocks. First, requiring the submission of an amendment or amendments to the effective national market system plan(s) for NMS stocks would impose a paperwork burden on the participants of such plan(s) associated with preparing and filing the amendment or amendments. Second, defining the monthly performance metrics for competing consolidators would impose a paperwork burden on the participants of the plan(s). Third, developing the requirements for the application of timestamps by the SROs would impose a paperwork burden on the SRO participants of such plans. Fourth, requiring the provision of an annual report to the Commission assessing competing consolidator performance would impose a paperwork burden on the participants of the effective national market system plan(s) for NMS stocks. Finally, developing and maintaining a list of the primary listing market for each NMS stock would impose a paperwork burden on the participants of the effective national market system plan(s) for NMS stocks.

[658] *See* proposed Rule 614(d)(6).

6. Collection and Dissemination of Information by National Securities Exchanges and National Securities Associations

The proposed amendment to Rule 603(b) would require every national securities exchange on which an NMS stock is traded and national securities association to make available to all competing consolidators and self-aggregators all information with respect to quotations for and transactions in NMS stocks, including all data necessary to generate consolidated market data, in the same manner and using the same methods, including all methods of access and using the same format, as such exchange or association makes available any information with respect to quotations for and transactions in NMS stocks to any person. SROs would be required to collect the information necessary to generate proposed consolidated market data, which would be required to be made available under proposed Rule 603(b). As proposed, the primary listing exchange would have to collect and make available pursuant to Rule 603(b) information required under Rule 201 of Regulation SHO. Moreover, the proposal would require the primary listing exchange with the largest proportion of stocks includes in the S&P 500 Index to monitor the index throughout the trading day. The collection of information may require system changes by the SROs.

B. Proposed Use of Information

1. Registration Requirements and Form CC

As discussed above, proposed Form CC, Rules 614(a)(1) and 614(a)(2) would generally require competing consolidators to register on Form CC and make amendments to an effective Form CC prior to implementing a material change to the pricing, connectivity or products offered and annually to correct information that has become inaccurate or incomplete for any reason. The information collected in Form CC would be used to help assure that a competing consolidator's disclosures comply with the requirements of proposed Rule 614 and so that specified information would be made publicly available and could be used to evaluate competing consolidators. The information required under proposed Rule 614(a)(1) also would be used by the Commission to determine whether to declare ineffective an initial Form CC filed by a competing consolidator.

Proposed Rule 614(a)(3) would require a competing consolidator to

provide notice of its cessation of operations on Form CC at least 30 business days prior to the date the competing consolidator will cease to operate as a competing consolidator. This information would be used by the Commission to monitor and oversee competing consolidators and would provide notice to the public that the competing consolidator intends to cease operations.

2. Competing Consolidator Duties and Data Collection

Under the proposed decentralized consolidation model, proposed Rules 614(d)(1)–(d)(3) would require the competing consolidators to collect from the SROs quotation and transaction information for NMS stocks, calculate and generate consolidated market data, as proposed, from this information, and make such consolidated market data available on terms that are not unreasonably discriminatory to subscribers. The information that would be collected under these provisions is a critical element of the U.S. national market system, and the availability of this information would promote fair and efficient markets and facilitate the ability of brokers and dealers to trade more effectively and to provide best execution to their customers.

Proposed Rule 614(d)(4) would require competing consolidators to timestamp the information with respect to quotations and transactions in NMS stocks that they collect from the SROs pursuant to proposed Rule 614(d)(1) upon receipt, upon receipt by the aggregation mechanism, and upon dissemination to subscribers. This information would be used by subscribers to determine a competing consolidator's realized latency and should assist subscribers in choosing a competing consolidator or in deciding whether the chosen competing consolidator continues to meet their latency needs.

Proposed Rule 614(c) would require each competing consolidator to make public on its website a direct URL hyperlink to the Commission's website that contains each effective initial Form CC, order of ineffective initial Form CC, and amendments to effective Form CCs. These proposed requirements will help to assure that information regarding competing consolidators is readily available.

3. Recordkeeping

Proposed Rule 614(d)(7) would require each competing consolidator to keep and preserve at least one copy of all documents made or received by it in the course of its business and in the conduct of its business. These documents must be kept for a period of no less than five years, the first two years in an easily accessible place. Proposed Rule 614(d)(8) would require each competing consolidator to promptly furnish these documents to any representative of the Commission upon request. This information would facilitate the Commission's oversight of competing consolidators.

4. Reports and Reviews

Proposed Rules 614(d)(5) and (d)(6) would require the monthly publication, on a competing consolidator's website, of metrics and other information concerning the competing consolidator's performance and operations. This information would include, among other things, latency statistics, system availability, data quality problems, and clock drift information. The information must be publicly posted and must remain free and accessible (without any encumbrances or restrictions) by the general public on the website for a period of not less than three years from the initial date of posting. These proposed rules would provide transparency with respect to the services and performance of a competing consolidator, which would allow market participants to evaluate the merits of a competing consolidator.

5. Amendment to the Effective National Market System Plan(s) for NMS Stocks

As discussed above, the effective national market system plan(s) for NMS stocks would need to be updated and would be required to include specified new provisions. Accordingly, the participants would be required to file an amendment or amendments to the plans to reflect the new role and functions of the plan(s). For example, the proposed amendment would need to reflect that the plan(s) is (are) no longer operating the exclusive SIPs. In addition, the amendment would reflect the new fees for consolidated market data as well as the approach to billing protocols, including an MISU policy. In addition, the participants to the plan(s) would need to file an amendment to define the monthly performance metrics of competing consolidators. The information that would be collected pursuant to the proposed plan(s) amendment would inform market participants of the proposed operation of the effective national market system plan(s) for NMS stocks and facilitate the Commission's ability to oversee the national market system for NMS stocks. The information that would be collected pursuant to the proposed plan(s) amendment would also inform competing consolidators of the monthly performance metrics that they would be required to develop. The amendment or amendments would be published for public comment.

(a) Proposed Application of Timestamps (Rule 614(e)(1)(iii))

As noted above, timestamps are used extensively in reporting market data elements. Timestamps are used to properly sequence events and are necessary for the elements of consolidated market data, as proposed. Timestamps also help to measure latencies with the provision of proposed consolidated market data. The lack of timestamps would impair the usefulness of the data and would impair market participants' ability to measure the latencies involved with the provision of proposed consolidated market data. Accordingly, the Commission preliminarily believes that the timestamp information that would be collected pursuant to the effective national market system plan(s) would be used by competing consolidators and self-aggregators to properly sequence core data elements and measure latencies relating to the collection, calculation and generation of core data.[659]

(b) Proposed Annual Report (Rule 614(a)(2)(ii))

The proposed assessment of competing consolidators' performance and the proposed annual report would be used by the Commission to analyze and oversee the operation of the effective national market system plan(s) for the provision of proposed consolidated market data in NMS stocks. The annual report would contain useful information for measuring the promptness, accuracy and reliability of the competing consolidator model. As noted above, the provision of consolidated market data is a necessary part of the national market system and the annual report would be useful in assessing its operation.

(c) Proposed List of Primary Listing Markets (Rule 614(e)(1)(iv))

The proposed list of the primary listing market for each NMS stock would be used by the Commission to oversee the development and provision of proposed regulatory data. In addition, the list would be used by primary listing exchanges to identify which primary listing exchange is responsible for making Short Sale Circuit Breaker

[659] In addition, the proposed timestamps would be used by competing consolidators to generate the monthly performance metrics pursuant to proposed Rule 614(d)(5).

information available pursuant to Rule 201(b)(3) is clearly identified.

6. Collection and Dissemination of Information by National Securities Exchanges and National Securities Associations

As discussed above, the proposed amendment to Rule 603(b) would require every national securities exchange on which an NMS stock is traded and national securities association to make available to all competing consolidators and self-aggregators all information with respect to quotations for and transactions in NMS stocks, including all data necessary to generate consolidated market data, as proposed, in the same manner and using the same methods, including all methods of access and using the same format, as such exchange or association makes available any information with respect to quotations for and transactions in NMS stocks to any person. In addition, as proposed, the primary listing exchange would have to collect and make available pursuant to Rule 603(b) information required under Rule 201 of Regulation SHO. Moreover, the primary listing exchange with the largest proportion of stocks included in the S&P 500 Index would need to monitor the index throughout the trading day. Therefore, to comply with this provision, the SROs would have to collect all elements of consolidated market data. The competing consolidators would consolidate, process, and sell to their customers these data regarding NMS stock quotations and transactions. The data will also be used by self-aggregators to trade and provide services to their customers.

C. Respondents

The collection of information in the proposed changes to Rule 603(b) would apply to the sixteen national securities exchanges (that are equity securities exchanges) and the one national securities association (Financial Industry Regulatory Authority, Inc.) that are registered with the Commission. The amendment to the effective national market system plan(s) for NMS stocks would apply to these sixteen national securities exchanges and the one national securities association (Financial Industry Regulatory Authority, Inc.) that are registered with the Commission and that are participants in the effective national market system plan(s) for NMS stocks.[660] In addition, the proposed information collections regarding registration requirements and Form CC, competing consolidator duties and data collection, recordkeeping, reports and reviews, and policies and procedures as contemplated in proposed Rule 614 would apply to those entities that register under the process in proposed Rule 614 to become competing consolidators. The Commission preliminarily estimates that there would initially be 12 persons who decide to perform the functions of a competing consolidator that would have to comply with the proposed information collections.

D. Total Annual Reporting and Recordkeeping Burden

1. Registration Requirements and Form CC

(a) Initial Burden and Costs

As discussed above, proposed Rule 614(a)(1) would require competing consolidators to register with the Commission by filing electronically new Form CC in accordance with the instructions to the Form CC. For purposes of the PRA, the Commission preliminarily estimates that it will take 200 hours to complete the initial Form CC with the information required, including all exhibits to Form CC. The Commission based this estimate on the number of hours necessary to complete Form SIP because Form CC was generally based on Form SIP and incorporated many of the provisions of Form SIP.[661] In addition, the Commission estimates that each competing consolidator would initially designate two individuals to access EFFS, with each application to access EFFS taking 0.15 hours for a total of 0.3 hours per competing consolidator. Therefore, the Commission estimates that it would take 200.3 hours to complete the Form CC and gain access to EFFS.

As noted above, the Commission preliminarily estimates that 12 respondents would be subject to this burden, however, as noted above, SROs are not required to file Form CC.[662] Therefore, there would be 8 respondents (the Commission preliminarily estimates that 4 SROs would also act as competing consolidators). Accordingly, the Commission estimates that the one-time initial registration burden for all competing consolidators is approximately 1,602.4 burden hours.[663] The Commission estimates that competing consolidators will, as a general matter, prepare Form CC internally and not use external service providers to complete the form. It is likely that Form CC would be prepared by an attorney, and, with approximately 1,602.4 burden hours for all competing consolidators, the total cost to register all competing consolidators would be $748,320.80.[664] In addition, the Commission estimates that each respondent would designate two individuals to sign the Form CC. An individual signing the Form CC must obtain a digital ID, at the cost of approximately $25 each year. Therefore, each respondent would expend approximately $50 annually to obtain digital IDs for the individuals with access to EFFS for the purposes of signing the Form CC[665] or approximately $400 for all respondents.[666]

As discussed below, the Commission believes that amendments to Form CC represent the ongoing annual burdens of Form CC and proposed Rule 614(a)(2). The Commission preliminarily estimates that competing consolidators may file two amendments—one Material Amendment and one Annual Report—during its first year after the

[660] Currently, these national securities exchanges are: Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX LLC, Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. The primary listing exchanges responsible for making Short Sale Circuit Breaker information available pursuant to Rule 201(b)(3) would be identified in the effective national market system plan(s).

[661] The Commission estimated that completing Form SIP, which includes 20 exhibits, would take 400 hours. *See* Securities Exchange Act Release No. 63347 (Nov. 19, 2010), 75 FR 77306 (Dec. 10, 2010) (''The Commission calculated in 2008 that Form SIP takes 400 hours to complete.''). Proposed Form CC includes 9 exhibits, so the Commission preliminarily estimates that completing proposed Form CC would take 200 hours.

[662] *See supra* note 537.

[663] The hour figure is based on 200.3 hours × an estimated 8 competing consolidators. The Commission preliminarily believes that additional competing consolidators may register from time to time and would be subject to a similar one-time initial registration burden.

[664] The Commission based this estimate on the $467 hourly rate as of May 2019 for an assistant general counsel × 200.3 hours × 8 respondents. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. Burden estimates may vary to the extent that competing consolidators utilize external service providers or outside counsel. The Commission preliminarily believes that competing consolidators would use in-house counsel and not use external service providers or outside counsel to file the Form CC.

[665] $25 per digital ID × 2 individuals = $50 per respondent.

[666] $50 per respondent × 8 total respondents = $400.

effectiveness of its Form CC. As discussed below, the ongoing annual burden for complying with these amendment requirements will be approximately 6.0 burden hours for each competing consolidator per amendment[667] (for a total of $2,802), and approximately 48 burden hours for all competing consolidators per amendment (for a total of $22,416).[668] Therefore, the Commission preliminarily estimates that each respondent will have an average annual burden of 12.0 hours (for a total of $5,604) for a total estimated average annual burden of 96 hours (for a total of $44,832).[669] As with the initial Form CC, the Commission believes the competing consolidators will conduct this work internally.

(b) Ongoing Burden and Costs

As discussed above, proposed Rule 614(a)(2) would require competing consolidators to amend Form CC prior to the implementation of material changes to pricing, connectivity, or products offered as well as annually to correct information that has become inaccurate or incomplete for any reason. On an ongoing basis, each competing consolidator may add one individual to access the EFFS system for amendments, adding 0.15 hours per competing consolidator.[670] The Commission believes that these amendments represent the ongoing annual burdens of Form CC and proposed Rule 614(a)(2). The Commission preliminarily estimates that the ongoing annual burden for complying with these amendment requirements will be approximately 6.15 burden hours for each competing consolidator per amendment[671] (for a total of $2,872.05), and approximately 49.2 burden hours for all competing consolidators per amendment (for a total of $22,976.40).[672]

The Commission preliminarily believes that one Material Amendment would be a reasonable estimate for the number of such amendments per year. Thus, the Commission preliminarily estimates that respondents will be required to file on average a total of two amendments per year, one Material Amendment plus one Annual Report. Therefore, the Commission preliminarily estimates that each respondent will have an average annual burden of 12.3 hours (for a total of $5,744.10) for a total estimated average annual burden of 98.4 hours (for a total of $45,952.80).[673] As with the initial Form CC, the Commission believes the competing consolidators will conduct this work internally. Further, as noted above, an individual signing the Form CC must obtain a digital ID, at the cost of approximately $25 each year. Therefore, each respondent would expend approximately $25 annually to obtain digital IDs for the individuals with access to EFFS for the purposes of signing the Form CC or approximately $200 for all respondents. Thus, the Commission preliminary estimates that each respondent will have an average annual cost of $5,769.10 ($5,744.10 + $25) and a total estimated annual cost of $46,152.80 ($5,769.10 * 8).

As discussed above, proposed Rule 614(a)(3) would permit a competing consolidator to cease acting as a competing consolidator by filing an amendment to Form CC 30 business days before the proposed cessation of acting as a competing consolidator. The Commission preliminarily believes that a competing consolidator's notice of cessation of acting as a competing consolidator on Form CC will be substantially similar to its most recently filed Form CC. The Form CC being filed in this circumstance will therefore already be substantially complete and as a result, the burden will not be as great as the burden of filing an application for registration on Form CC. Rather, the Commission preliminarily believes that the burden of filing a notice of cessation of acting as a competing consolidator on Form CC will be akin to filing an amendment on Form CC. Thus, the Commission estimates that the one-time burden of filing Form CC to notice cessation of acting as a competing consolidator will be approximately 2 burden hours (for a total of $934).[674]

2. Competing Consolidator Duties and Data Collection

As discussed above, proposed Rules 614(d)(1)–(d)(3) would require the competing consolidators to collect from the SROs quotation and transaction information for NMS stocks, calculate and generate proposed consolidated market data from this information, and make proposed consolidated market data available to subscribers on a consolidated basis on terms that are not unreasonably discriminatory. Proposed Rule 614(d)(4) would require competing consolidators to timestamp the information with respect to quotations and transactions in NMS stocks that they collect from the SROs pursuant to proposed Rule 614(d)(1) upon receipt, upon receipt by the aggregation mechanism, and upon dissemination to subscribers. The Commission preliminarily believes that five types of entities may register to become competing consolidators and would have to build systems, or modify existing systems, that comply with Rules 614(d)(1)–(d)(4): (1) Market data aggregation firms, (2) broker-dealers that currently aggregate market data for internal uses, (3) the existing exclusive SIPs (CTA/CQ and Nasdaq UTP SIPs), (4) entities that would be entering the market data aggregation business for the first time (''new entrants''), and (5) SROs. The Commission preliminarily estimates that, apart from the SRO category, two respondents from each category may register to become a competing consolidator; the Commission preliminarily believes that four SROs may register to become competing consolidators.[675]

(a) Initial Burden Hours and Costs for Market Data Aggregation Firms

There are a number of technology firms that provide proprietary market data aggregation services. The Commission preliminarily believes that

[667] When Form SDR was adopted in 2015, the Commission estimated the hour burden for amendments to be roughly 3% of the initial burden. Securities Exchange Act Release No. 74246, *supra* note 554, at 14522. In that release, the initial burden was calculated to be 400 hours per respondent and 12 hours per respondent for amendments. The Commission believes that a similar ratio will apply to filers of Form CC because filers of Form SDR, like filers of Form CC, are required to file amendments annually as well as when certain information on Form SDR becomes inaccurate. Form SDR: General Instructions for Preparing and Filing Form SDR, *available at https://www.sec.gov/about/forms/formsdr.pdf* (last accessed Jan. 8, 2020). Thus, the Commission estimates that the annual burden of filing one amendment on Form CC will be 3% of the 200 hour initial burden, or 6 hours.

[668] *See supra* note 664.

[669] *See id.*

[670] For example, a competing consolidator may have to add an individual to access EFFS to account for staffing changes.

[671] When Form SDR was adopted in 2015, the Commission estimated the hour burden for amendments to be roughly 3% of the initial burden. Securities Exchange Act Release No. 74246, *supra* note 554, at 14522. In that release, the initial burden was calculated to be 400 hours per respondent and 12 hours per respondent for amendments. The Commission believes that a similar ratio will apply to filers of Form CC because filers of Form SDR, like filers of Form CC, are required to file amendments annually as well as when certain information on Form SDR becomes inaccurate. Form SDR: General Instructions for Preparing and Filing Form SDR, *available at https://www.sec.gov/about/forms/formsdr.pdf* (last accessed Jan. 8, 2020). Thus, the Commission estimates that the annual burden of filing one amendment on Form CC will be 3% of the 200 hour initial burden, or 6 hours.

[672] *See supra* note 664.

[673] *See id.*

[674] *See id.* The Commission preliminarily estimates that no competing consolidators would cease operation in the first three years of the rule's effectiveness.

[675] The Commission preliminarily believes that these SROs may be a national securities association and equities national securities exchanges that do not currently operate an exclusive SIP.

some of these firms may choose to become competing consolidators because they currently collect, consolidate and disseminate market data to their customers, much like competing consolidators would. The systems used by these firms already collect, consolidate and disseminate more extensive proprietary market data than the data that is provided by the exclusive SIPs. Therefore, the Commission preliminarily believes that firms providing proprietary market data aggregation services would not have to extensively modify their systems to comply with Rules 614(d)(1)–(d)(4). For example, the Commission preliminarily believes that each market data aggregation firm would incur burden hours to expand their bandwidth to receive information that is not currently disseminated in the exchange proprietary market data feeds, such as the proposed regulatory data and administrative data, and may incur external costs to purchase hardware to receive such added information.

The Commission preliminarily believes that each market data aggregation firm that chooses to become a competing consolidator would incur initial burden hours to upgrade its systems to comply with Rules 614(d)(1)–(d)(4) in order to collect, consolidate and disseminate the proposed consolidated market data. The Commission also preliminarily believes that each market data aggregation firm would incur initial external costs associated with such upgrades, including co-location fees at the exchange data centers and the cost of market data.

The Commission preliminarily believes that each market data aggregation firm would incur 900 initial burden hours [676] and $206,250 in external costs [677] to modify its systems to comply with Rules 614(d)(1)–(d)(4). Additionally, the Commission estimates that an existing market data aggregator would incur initial external costs of $14,000 to purchase market data from the SROs,[678] and an additional initial external cost of $194,000 to co-locate at four exchange data centers,[679] for a total initial external cost of $414,250 per existing market data aggregator,[680] and an aggregate estimate of 1,800 initial burden hours [681] and $828,500 in initial external costs.[682] The Commission solicits comment on the accuracy of this information.

(b) Initial Burden Hours and Costs for Broker-Dealers That Aggregate Market Data

The Commission preliminarily believes that some broker-dealers that currently aggregate market data for their own internal uses may choose to become competing consolidators. The systems used by such broker-dealers already collect and consolidate the proprietary feeds from the exchanges, which contain more extensive data than the data provided by the exclusive SIPs. Therefore, Commission preliminarily believes that these firms may not have to extensively modify their systems to comply with Rules 614(d)(1)–(d)(4). For example, the Commission preliminarily believes that each broker-dealer would incur burden hours to expand their bandwidth to receive information that is not currently disseminated in the exchange proprietary market data feeds, such as data from the OTC market, the proposed regulatory data and administrative data and may incur external costs to purchase hardware to receive such added information. In addition, these broker-dealers would incur burden hours to disseminate proposed consolidated market data to subscribers. The Commission estimates that the initial burden hour and external costs estimates for these broker-dealers to modify their systems to comply with Rules 614(d)(1)–(d)(4) would be similar to market data aggregation firms because, for both types of respondents, the scope of the systems changes and costs associated with becoming competing consolidators would be comparable.

The Commission preliminarily believes that each broker-dealer that aggregates market data for internal uses that chooses to become a competing consolidator would incur burden hours to upgrade its systems to comply with Rules 614(d)(1)–(d)(4) in order to collect, consolidate, and disseminate the proposed consolidated market data. The Commission also preliminarily believes that each broker-dealer would also incur initial external costs associated with such upgrades, including co-location fees at the exchange data centers and the cost of market data.

The Commission preliminarily believes that each broker-dealer would incur 900 initial burden hours [683] and $206,250 in external costs [684] to modify its systems to comply with Rules 614(d)(1)–(d)(4). Additionally, the Commission estimates that a broker-dealer would incur initial external costs of $14,000 to purchase market data from the SROs,[685] and an additional initial external cost of $194,000 to co-locate itself at four exchange data centers,[686]

[676] The Commission estimates the monetized initial burden for this requirement to be $293,750. Based on discussions with a market participant, the Commission reached the following estimates: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] = 6 months (900 burden hours) to upgrade existing systems to comply with Rules 614(d)(1)–(d)(4). The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[677] This estimate is based on discussions with a market participant and the Commission's understanding of hardware costs.

[678] The Commission is using the monthly market data access and redistribution fees currently charged by the CTA/CQ SIP and Nasdaq UTP SIP as the basis of this estimate ($14,000).

[679] This estimate is based on an estimated $48,500 in initial co-location fees as calculated from NYSE Price List 2020, multiplied by four exchange data centers. The Commission preliminarily believes that the market data aggregators would already be co-located at the four exchange data centers, which may lower this estimate. *See* NYSE Price List 2020, *supra* note 408.

[680] $414,250 = [($206,250 in initial external costs to modify systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 for the first month of market data costs) + ($194,000 in initial co-location costs at four exchange data centers)].

[681] The Commission estimates the monetized initial burden for this requirement to be $587,500. Based on discussions with a market participant, the Commission reached the following estimates: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] × [(2 market data aggregation firms)] = 1,800 initial burden hours across the market data aggregation firms.

[682] The Commission preliminarily estimates that the market data aggregation firms would incur the following initial external costs: [($206,250 to modify systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 to purchase market data) + ($194,000 to co-locate within four exchange data centers)] × [(2 market data aggregation firms)] = $828,500.

[683] The Commission estimates the monetized initial burden for this requirement to be $293,750. Based on discussions with a market participant, the Commission reached the following estimates: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] = 6 months (900 burden hours) to upgrade existing systems to comply with Rules 614(d)(1)–(d)(4). The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for a 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[684] This estimate is based on discussions with a market participant and the Commission's understanding of hardware costs.

[685] The Commission is using the monthly market data access and redistribution fees currently charged by the CTA/CQ SIP and Nasdaq UTP SIP as the basis of this estimate ($14,000).

[686] This estimate is based on an estimated $48,500 in initial co-location fees as calculated from NYSE Price List 2020, multiplied by four exchange data centers. *See* NYSE Price List 2020, *supra* note 408.

for a total initial external cost of $414,250 per broker-dealer,[687] and an aggregate estimate of 1,800 initial burden hours[688] and $828,500 in initial external costs.[689] The Commission solicits comment on the accuracy of this information.

(c) Initial Implementation Burden Hours and Costs for the Exclusive SIPs

The Commission preliminarily believes that the CTA/CQ SIP and the Nasdaq UTP SIP could choose to become competing consolidators due to their years of experience in collecting, consolidating and disseminating market data. The systems used by the exclusive SIPs already collect, consolidate and disseminate SIP data. Therefore, the Commission preliminarily believes that the exclusive SIPs would not have to build entirely new systems to comply with Rules 614(d)(1)–(d)(4). For example, each exclusive SIP would incur burden hours and external costs to expand their bandwidth and connections to consume and disseminate proposed consolidated market data as well as to transmit it, and to program feed handlers to receive and normalize the different formats of the data feeds developed by the exchanges.[690] Further, each exclusive SIP would expend external costs on purchasing proposed consolidated market data and on colocation fees at the exchange data centers.

However, the exclusive SIPs may have to make a greater scope of changes to become competing consolidators than market data aggregation firms. For this reason, the Commission has estimated initial burden hour and external cost estimates that are higher than those estimated for market data aggregation firms.

The Commission preliminarily believes that each exclusive SIP would incur burden hours to upgrade their systems to comply with Rules 614(d)(1)–(d)(4) to collect, consolidate and disseminate the proposed consolidated market data. The Commission also preliminarily believes that each exclusive SIP would also incur external costs associated with such upgrades, including co-location fees at the exchange data centers and the cost of market data. The Commission preliminarily believes that each exclusive SIP would incur 1,800 initial burden hours[691] and $412,500 in external costs[692] to modify its systems to comply with Rules 614(d)(1)–(d)(4). Additionally, the Commission estimates that an exclusive SIP would incur initial external costs of $14,000 to purchase market data from the SROs,[693] and an additional initial external cost of $194,000 to co-locate itself at four exchange data centers,[694] for a total initial external cost of $620,500 per existing SIP,[695] and an aggregate estimate of 3,600 initial burden hours[696] and $1,241,000 in initial external costs.[697] The Commission solicits comment on the accuracy of this information.

(d) Initial Implementation Burden Hours and Costs for New Entrants

The Commission anticipates that firms without prior experience in the business of collecting, consolidating and disseminating market data may choose to become competing consolidators and would have to build systems to comply with Rules 614(d)(1)–(d)(4). Because these systems would be completely new, the Commission preliminarily believes that these new entrants will incur substantially higher initial burden hours and external costs to build a system that complies with Rules 614(d)(1)–(d)(4) than the other entities described above. For this reason, the Commission has estimated initial burden hour and external cost estimates for new entrants that are higher than those estimated for the other potential entities that may choose to become competing consolidators. The Commission preliminarily believes that each new entrant would incur initial burden hours to comply with Rules 614(d)(1)–(d)(4) to build a system that collects, consolidates, and disseminates the proposed consolidated market data. The Commission also preliminarily believes that each new entrant would incur associated external costs, including co-location fees at the exchange data centers and the cost of market data. The Commission preliminarily believes that each new entrant would incur 3,600 initial burden hours[698] and $825,000 in external

[687] $414,250 = [($206,250 in initial external costs to modify systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 for the first month of market data costs) + ($194,000 in initial co-location costs at four exchange data centers)].

[688] The Commission estimates the monetized initial burden for this requirement to be $587,500. Based on discussions with a market participant, the Commission reached the following estimates: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] × [(2 broker-dealers)] = 1,800 initial burden hours across the broker-dealers.

[689] The Commission preliminarily estimates that broker-dealers would incur the following initial external costs: [($206,250 to modify systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 to purchase market data) + ($194,000 to co-locate within four exchange data centers) × (2 broker-dealers)] = $828,500.

[690] Feed handlers receive market data and make it usable to customers.

[691] Based on discussions with a market participant, the Commission reached the following estimates for a market data aggregation firm: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] = 6 months (900 burden hours) to upgrade existing systems to comply with Rules 614(d)(1)–(d)(4). The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for a 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. As noted above, the Commission has increased this initial burden hour estimate for the exclusive SIPs. Therefore, the Commission preliminarily estimates that each exclusive SIP will incur 1,800 initial burden hours to upgrade its existing systems to comply with Rules 614(d)(1)–(d)(4) (or $587,500, as monetized).

[692] As noted above, the Commission estimates the initial external cost estimates to comply with Rules 614(d)(1)–(d)(4) will be higher for exclusive SIPs than for market data aggregation firms. Therefore, the Commission preliminarily estimates that each existing SIP will incur $412,500 in initial external costs to modify its systems to comply with Rules 614(d)(1)–(d)(4).

[693] The Commission is using the monthly market data access and redistribution fees currently charged by the CTA/CQ SIP and Nasdaq UTP SIP as the basis of this estimate ($14,000).

[694] This estimate is based on an estimated $48,500 in initial co-location fees as calculated from NYSE Price List 2020, multiplied by four exchange data centers. *See* NYSE Price List 2020, *supra* note 408.

[695] The Commission preliminarily estimates that each existing SIP would incur the following initial external costs: [($412,500 to modify systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 to purchase market data) + ($194,000 to co-locate within four exchange data centers)] = $620,500.

[696] Based on discussions with a market participant, the Commission reached the following estimates for a market data aggregation firm: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] = 900 initial burden hours across the market data aggregation firms. As noted above, the Commission has increased this initial burden hour estimate to apply to the exclusive SIPs. Therefore, the Commission preliminarily estimates that each exclusive SIP will incur 1,800 initial burden hours to upgrade its existing systems to comply with Rules 614(d)(1)–(d)(4) (or $587,500, as monetized). The aggregate initial burden hour estimate for two exclusive SIPs would be [(1,800 initial burden hours) × (2 existing SIPs)] = 3,600 initial burden hours.

[697] The Commission preliminarily estimates that the exclusive SIPs would incur the following initial external costs: [($412,500 to modify systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 to purchase market data) + ($194,000 to co-locate within four exchange data centers)] × [(2 exclusive SIPs)] = $1,241,000.

[698] Based on discussions with a market participant, the Commission reached the following estimates for a market data aggregation firm: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] = 6 months (900 burden hours) to upgrade

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costs [699] to build systems to comply with Rules 614(d)(1)–(d)(4). Additionally, the Commission estimates that a new entrant would incur initial external costs of $14,000 to purchase market data from the SROs,[700] and an additional initial external cost of $194,000 to co-locate itself at four exchange data centers,[701] for a total initial external cost of $1,033,000 per new entrant,[702] and an aggregate estimate of 7,200 initial burden hours [703] and $2,066,000 in initial external costs.[704] The Commission solicits comment on the accuracy of this information.

(e) Initial Implementation Burden Hours and Costs for SROs

The Commission anticipates that SROs may choose to become competing consolidators and would have to build new systems to comply with Rules 614(d)(1)–(d)(4). Although these SROs may be able to leverage existing systems in developing a system compliant with Rules 614(d)(1)–(d)(4), the Commission preliminarily believes that these SROs would likely have to build new systems and thus will incur initial burden hours to comply with Rules 614(d)(1)–(d)(4) that are similar to new entrants. The Commission preliminarily believes that each SRO would incur initial burden hours to comply with Rules 614(d)(1)–(d)(4) to build a system that collects, consolidates, and disseminates the proposed consolidated market data. The Commission also preliminarily believes that each SRO would incur associated external costs, including co-location fees at the exchange data centers and the cost of market data. The Commission preliminarily believes that each SRO would incur 3,600 initial burden hours [705] and $825,000 in external costs [706] to build systems to comply with Rules 614(d)(1)–(d)(4). Additionally, the Commission estimates that an SRO would incur initial external costs of $14,000 to purchase market data from the SROs,[707] and an additional initial external cost of $194,000 to co-locate itself at four exchange data centers,[708] for a total initial external cost of $1,033,000 per new entrant,[709] and an aggregate estimate of 14,400 initial burden hours [710] and $4,132,000 in initial external costs.[711] The Commission solicits comment on the accuracy of this information.

(f) Ongoing Burden Hours and Costs for Market Data Aggregation Firms, Broker-Dealers That Aggregate Market Data, Exclusive SIPs, New Entrants, and SROs

The Commission preliminarily believes that once a competing consolidator's system has been built, the entities that have become competing consolidators (originally, the existing market data aggregation firms, broker-dealers that aggregate market data, exclusive SIPs, new entrants, and SROs) will incur annual ongoing burden hours and external costs to operate and maintain their systems to comply with Rules 614(d)(1)–(d)(4). The Commission also preliminarily believes that these annual ongoing burdens should be similar across the competing consolidators because such systems would likely be similar in nature. Therefore, the burden hours and costs associated with operating and maintain a competing consolidator system should be comparable across competing consolidators. The Commission is therefore applying the same annual ongoing burden hour and external cost estimates across the five types of entities that the Commission anticipates may choose to become competing consolidators.

existing systems to comply with Rules 614(d)(1)–(d)(4). The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. As noted above, the Commission has increased this initial burden hour estimate to apply to the new entrants. Therefore, the Commission preliminarily estimates that each new entrant will incur 3,600 initial burden hours to build systems to comply with Rules 614(d)(1)–(d)(4) (or $1,175,000, as monetized).

[699] As noted above, the Commission has increased its initial external cost estimates for market data aggregation firms to apply to new entrants. Therefore, the Commission preliminarily estimates that each new entrant will incur $825,000 in initial external costs to build systems to comply with Rules 614(d)(1)–(d)(4).

[700] The Commission is using the monthly market data access and redistribution fees currently charged by the CTA/CQ SIP and Nasdaq UTP SIP as the basis of this estimate ($14,000).

[701] This estimate is based on an estimated $48,500 in initial co-location fees as calculated from NYSE Price List 2020, multiplied by four exchange data centers. *See* NYSE Price List 2020, *supra* note 408.

[702] The Commission preliminarily estimates that each new entrant would incur the following initial external costs: [($825,000 to build systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 to purchase market data) + ($194,000 to co-locate within four exchange data centers)] = $1,033,000.

[703] Based on discussions with a market participant, the Commission reached the following estimates for a market data aggregation firm: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] = 900 initial burden hours. As noted above, the Commission has increased the per market data aggregation firm initial burden hour estimate to apply to the new entrants. Therefore, the Commission preliminarily estimates that each existing SIP will incur 3,600 initial burden hours to upgrade its existing systems to comply with Rules 614(d)(1)–(d)(4) (or $1,175,000, as monetized). [(3,600 burden hours) × (2 new entrants] = 7,200 hours (or $2,350,000 as monetized).

[704] The Commission preliminarily estimates that each new entrant would incur the following initial external costs: [($825,000 to build systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 to purchase market data) + ($194,000 to co-locate within four exchange data centers) × (2 new entrants)] = $1,033,000. [($1,033,000 in initial external costs) × (2 new entrants)] = $2,066,000.

[705] Based on discussions with a market participant, the Commission reached the following estimates for a market data aggregation firm: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] = 6 months (900 burden hours) to upgrade existing systems to comply with Rules 614(d)(1)–(d)(4). The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. As it did for its new entrant estimates, the Commission has increased this initial burden hour estimate to apply to the SROs. Therefore, the Commission preliminarily estimates that each new entrant will incur 3,600 initial burden hours to build systems to comply with Rules 614(d)(1)–(d)(4) (or $1,175,000, as monetized).

[706] As it did for its new entrant estimates, the Commission has increased its initial external cost estimates for market data aggregation firms to apply to the SROs. Therefore, the Commission preliminarily estimates that each SRO will incur $825,000 in initial external costs to build systems to comply with Rules 614(d)(1)–(d)(4).

[707] The Commission is using the monthly market data access and redistribution fees currently charged by the CTA/CQ SIP and Nasdaq UTP SIP as the basis of this estimate ($14,000).

[708] This estimate is based on an estimated $48,500 in initial co-location fees as calculated from NYSE Price List 2020, multiplied by four exchange data centers. *See* NYSE Price List 2020, *supra* note 408.

[709] The Commission preliminarily estimates that each SRO would incur the following initial external costs: [($825,000 to build systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 to purchase market data) + ($194,000 to co-locate within four exchange data centers)] = $1,033,000.

[710] Based on discussions with a market participant, the Commission reached the following estimates for a market data aggregation firm: [(Sr. Programmer at $332/hour for 350 hours) + (Sr. Systems Analyst at $285/hour for 300 hours) + (Compliance Manager at $310/hour for 100 hours) + (Director of Compliance at $489/hour for 50 hours) + (Compliance Attorney at $366/hour for 100 hours)] = 900 initial burden hours. As it did for its new entrant estimates, the Commission has increased the per market data aggregation firm initial burden hour estimate to apply to the SROs. Therefore, the Commission preliminarily estimates that each SRO will incur 3,600 initial burden hours to upgrade its existing systems to comply with Rules 614(d)(1)–(d)(4) (or $1,175,000, as monetized). [(3,600 burden hours) × (4 new entrants] = 14,400 hours (or $4,700,000 as monetized).

[711] The Commission preliminarily estimates that each SRO would incur the following initial external costs: [($825,000 to build systems to comply with Rules 614(d)(1)–(d)(4)) + ($14,000 to purchase market data) + ($194,000 to co-locate within four exchange data centers)] = $1,033,000. [($1,033,000 in initial external costs) × (4 new entrants)] = $4,132,000.

The Commission preliminarily believes that entities choosing to become competing consolidators would incur annual ongoing burden hours and external costs to operate and maintain their modified systems to comply with Rules 614(d)(1)–(d)(4). The Commission preliminarily believes that each entity would incur 540 annual ongoing burden hours [712] and $123,725 in annual ongoing external costs [713] to operate and maintain its systems to comply with Rules 614(d)(1)–(d)(4).

Additionally, the Commission estimates that each entity would incur annual ongoing external costs of $168,000 to purchase market data from the SROs,[714] and an additional annual ongoing external cost of $4,602,720 to co-locate itself at four exchange data centers,[715] for a total annual ongoing external cost of $4,894,445 per entity.[716] Because the Commission preliminarily believes that there will be two entities per category of potential competing consolidators for existing market data aggregators, broker-dealers that currently aggregate market data, exclusive SIPs and new entrants, for each of these categories, the aggregate estimates would amount to estimate of 1,080 annual ongoing burden hours [717] and $9,797,530 in annual ongoing external costs.[718]

Since the Commission preliminarily believes that there may be four SROs that will choose to become competing consolidators, it is estimating that these SROs will incur an aggregate estimate of 2,160 annual ongoing burden hours [719] and $19,577,780 in annual ongoing external costs.[720] The Commission solicits comment on the accuracy of this information.

(g) Initial Burden and Costs for Proposed Rule 614(c)

As discussed above, proposed Rule 614(c) would require each competing consolidator to make public on its website a direct URL hyperlink to the Commission's website that contains each effective initial Form CC, order of ineffective initial Form CC, and amendments to effective Form CCs. The Commission preliminarily estimates an initial burden of 0.5 hours per competing consolidator to publicly post the Commission's direct URL hyperlink to its website upon filing of the initial Form CC,[721] for an aggregate initial burden of approximately six hours for the competing consolidators to publicly post the direct URL hyperlink to the Commission's website on their own respective websites.[722]

(h) Ongoing Burden and Costs for Proposed Rule 614(c)

The Commission preliminarily believes that each competing consolidator would check the Commission's website whenever it submits amendments to effective Form CCs to ensure that the Commission's direct URL hyperlink that the competing consolidator has posted to its own website remains valid. The Commission preliminarily believes that a competing consolidator will file two amendments per year, so the Commission preliminarily estimates that each competing consolidator will incur an ongoing burden of 0.25 hours per amendment, or 0.5 hours per year, to ensure that it has posted the correct direct URL hyperlink to the Commission's website on its own website,[723] for an aggregate annual

[712] The Commission preliminarily believes that once a competing consolidator's infrastructure is in place, the burden of operating and maintaining the infrastructure will be less than the burdens associated with establishing the infrastructure. The Commission estimates the monetized initial burden for this requirement to be $176,250. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Sr. Programmer at $332 for 210 hours) + (Sr. Systems Analyst at $285 for 180 hours) + (Compliance Manager at $310 for 60 hours) + (Director of Compliance at $489 for 30 hours) + (Compliance Attorney at $366 for 60 hours)] = 540 burden hours per entity and $176,250.

[713] This estimate is based on the initial external cost estimate for a market data aggregation firm to modify its systems to comply with Rules 614(d)(1)–(d)(4), but reduced because the Commission preliminarily believes that once a competing consolidator's infrastructure is in place, the burden of operating and maintaining the infrastructure will be less than the burdens associated with establishing the infrastructure.

[714] The Commission is using the monthly market data access and redistribution fees currently charged by the CTA/CQ SIP and Nasdaq UTP SIP as the basis of this estimate ($14,000), multiplied by 12 months.

[715] This estimate is based on an estimated $95,890 in monthly co-location fees as calculated from NYSE Price List 2020, multiplied by four exchange data centers over 12 months. The Commission preliminarily believes that the market data aggregators would already be co-located at the four exchange data centers, which may lower this estimate for this category of respondent. *See* NYSE Price List 2020, *supra* note 408.

[716] $4,894,445 = [($123,725 to operate and maintain systems to comply with Rules 614(d)(1)–(d)(4)) + ($168,000 in monthly market data fees over 12 months) + ($4,602,720 to co-locate within four exchange data centers over 12 months)].

[717] The Commission estimates the monetized annual ongoing burden for this requirement to be $352,500. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Sr. Programmer at $332 for 210 hours) + (Sr. Systems Analyst at $285 for 180 hours) + (Compliance Manager at $310 for 60 hours) + (Director of Compliance at $489 for 30 hours) + (Compliance Attorney at $366 for 60 hours)] × [(2 market data aggregation firms/broker-dealers that currently aggregate market data/existing SIPs/new entrants)] = 1,080 annual ongoing burden hours and $352,500.

[718] The Commission preliminarily estimates that the market data aggregation firms/broker-dealers that currently aggregate market data for their own usage/exclusive SIPs/new entrants would incur the following aggregate annual ongoing external costs: [($123,725 to operate and maintain systems to comply with Rules 614(d)(1)–(d)(4)) + ($168,000 in monthly market data fees over 12 months) + ($4,602,720 to co-locate within four exchange data centers over 12 months)] × [(2 entities)] = $9,788,890.

[719] The Commission estimates the monetized initial burden for this requirement to be $353,500. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Sr. Programmer at $332 for 210 hours) + (Sr. Systems Analyst at $285 for 180 hours) + (Compliance Manager at $310 for 60 hours) + (Director of Compliance at $489 for 30 hours) + (Compliance Attorney at $366 for 60 hours)] × [(4 SROs)] = 2,160 annual ongoing burden hours across the SROs and $705,000.

[720] The Commission preliminarily estimates that the SROs would incur the following initial external costs: [($123,725 to operate and maintain systems to comply with Rules 614(d)(1)–(d)(4)) + ($168,000 in monthly market data fees over 12 months) + ($4,602,720 to co-locate within four exchange data centers over 12 months)] × [(4 SROs)] = $19,577,780 across the SROs.

[721] The Commission bases this estimate on a full-time Programmer Analyst spending approximately 0.5 hours to publicly post the URL hyperlink per competing consolidator. The Commission estimates the monetized initial burden for this requirement to be $120.50. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: Programmer Analyst at $241 for 0.5 hours = 0.5 initial burden hours per competing consolidator and $120.50.

[722] The Commission estimates the monetized initial aggregate burden for this requirement to be $1,446. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Programmer Analyst at $241 for 0.5 hours) × (12 competing consolidators)] = 6 initial burden hours across the competing consolidators and $1,446.

[723] The Commission bases this estimate on a full-time Programmer Analyst spending approximately 0.25 hours to check the Commission's website when the competing consolidator submits an amendment to effective Form CCs to ensure that the Commission's direct URL hyperlink that the competing consolidator has posted to its own website remains valid. Since the Commission preliminarily believes that a competing consolidator would file two amendments per year, the Commission preliminarily estimates that each competing consolidator would incur a burden of 0.5 hours per year. [(0.25 hours) × (2 amendments per year)] = 0.5 hours per year to check the URL hyperlink. The Commission estimates the

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burden of approximately six hours for the competing consolidators to do so.[724]

3. Recordkeeping

(a) Initial Burden and Costs

Proposed Rule 614(d)(7) would require each competing consolidator to keep and preserve at least one copy of all documents made or received by it in the course of its business and in the conduct of its business. These documents must be kept for a period of no less than five years, the first two years in an easily accessible place. Proposed Rule 614(d)(8) would require each competing consolidator to promptly furnish these documents to any representative of the Commission upon request. Based on the Commission's experience with recordkeeping costs and consistent with prior burden estimates for similar provisions,[725] the Commission preliminarily estimates that this requirement will create an initial burden of 40 hours (for a total cost of $8,720),[726] for a total initial burden of 480 hours for all respondents (for a total cost of $104,640).

(b) Ongoing Burden and Costs

The Commission preliminarily believes that the ongoing annual burden of recordkeeping in accordance with proposed Rules 614(d)(7) and 614(d)(8) would be 20 hours per respondent (for a total cost of $4,360) and a total ongoing annual burden of 240 hours for all respondents (for a total cost of $52,320).

4. Reports and Reviews

(a) Initial Burden and Costs

The Commission preliminarily believes that the average one-time, initial burden to program systems to produce the monthly reports required by proposed Rules 614(d)(5) and (d)(6), including keeping the information publicly posted and free and accessible (in downloadable files under Rule 614(d)(5)), would be 246 hours per competing consolidator (for a total cost of $80,507)[727] and $800 in external costs.[728] The Commission estimates that the total initial burden would be 2,952 hours (for a total cost of $966,804)[729] and a total initial external cost of $9,600.[730]

(b) Ongoing Burden and Costs

The Commission estimates that each competing consolidator would incur an average burden of 11 hours to prepare and make publicly available a monthly report in the format required by proposed Rules 614(d)(5) and (d)(6) (for a total cost of $3,768.50), or a burden of 132 hours per year (for a total cost of $45,222).[731] Once a report is posted on an internet website, the Commission does not estimate that there would be an additional burden to allow the report to remain posted for the period of time specified in the rules. The total burden per year for all competing consolidators to comply with the monthly reporting requirement in proposed Rules 614(d)(5) and (d)(6) is estimated to be 1,584 hours (for a total cost of $542,664).[732]

5. Amendment to the Effective National Market System Plan(s) for NMS Stocks

As discussed above, the proposed rule would require an amendment to the effective national market system plan(s) for NMS stocks from the 16 national securities exchanges and one national securities association respondents who are participants in the effective national market system plan(s). The Commission preliminarily estimates that it would take the participants to the effective

monetized annual burden for this requirement to be $120.50. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: Programmer Analyst at $241 for 0.5 hours = 0.5 annual burden hours per competing consolidator and $120.50.

[724] The Commission estimates the monetized aggregate annual burden for this requirement to be $1,446.00. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Programmer Analyst at $241 for 0.5 hours) × (12 competing consolidators)] = 6 annual burden hours across the competing consolidators and $1,446.00.

[725] *See* Securities Exchange Act Release No. 74246, *supra* note 554, at 14541.

[726] The Commission based this estimate on the $218 hourly rate as of May 2019 for a paralegal × 40 hours. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[727] This figure is based on the estimated initial paperwork burden for Rule 606(a), which requires each broker or dealer to make publicly available on a website a quarterly report on its routing of non-directed orders in NMS stocks that are submitted on a held basis and of non-directed orders that are customer orders in NMS securities. *See* Disclosure of Order Handling Information, Securities Exchange Act Release No. 84528, *supra* note 10. For purposes of this proposal, the Commission is converting the 10 hour estimate for a quarterly report to an estimate for a monthly report. Additionally, the Commission is adding the burden of posting the required information to the website. The Commission estimates the monetized initial burden for this requirement to be $80,507. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Sr. Programmer at $332 per hour for 160 hours) + (Sr. Database Administrator at $342 per hour for 20 hours) + (Sr. Business Analyst at $275 per hour for 20 hours) + (Attorney at $417 per hour for 4 hours) + (Sr. Operations Manager at $366 per hour for 20 hours) + (Systems Analyst at $263 per hour for 16 hours) + ($308.50 blended rate for Sr. Systems Analyst and Sr. Programmer for 6 hours)] = 246 initial burden hours per competing consolidator and $80,507.

[728] The Commission estimates that each competing consolidator would incur an initial external cost of $800 for an external website developer to create the website.

[729] The Commission estimates the monetized initial aggregate burden for this requirement to be $966,804. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Sr. Programmer at $332 per hour for 160 hours) + (Sr. Database Administrator at $342 per hour for 20 hours) + (Sr. Business Analyst at $275 per hour for 20 hours) + (Attorney at $417 per hour for 4 hours) + (Sr. Operations Manager at $366 per hour for 20 hours) + (Systems Analyst at $263 per hour for 16 hours) + ($308.50 blended rate for Sr. Systems Analyst and Sr. Programmer for 6 hours)] × [(12 competing consolidators)] = 2,952 initial aggregate burden hours across the competing consolidators and $966,804.

[730] $9,600 = ($800 for an external website developer to create the website) × (12 competing consolidators).

[731] This figure is based on the estimated ongoing paperwork burden for Rule 606(a), which requires each broker or dealer to make publicly available on a website a report on a quarterly basis. In the Paperwork Reduction Act discussion for Rule 606(a), the Commission established that the average annual burden for a broker-dealer to comply with Rules 606(a)(1)(i)–(iii) would be 10 hours. *See supra* note 727, at 58388. For purposes of this proposal, the Commission is converting the 10 hour estimate for a quarterly report to an estimate for a monthly report. Additionally, the Commission is adding the burden of updating the website. The Commission estimates the monetized annual burden for this requirement to be $3,768.50. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Sr. Business Analyst at $275 per hour for 5 hours) + (Attorney at $417 per hour for 5 hours) + ($308.50 blended rate for Sr. Systems Analyst and Sr. Programmer for 1 hour)] × [(12 months)] = 132 initial burden hours per competing consolidator and $45,222.

[732] The Commission estimates the monetized annual aggregate burden for this requirement to be $542,664. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Sr. Business Analyst at $275 per hour for 5 hours) + (Attorney at $417 per hour for 5 hours) + ($308.50 blended rate for Sr. Systems Analyst and Sr. Programmer for 1 hour)] × [(12 competing consolidators)] × [(12 months)] = 1,584 aggregate burden hours across the competing consolidators and $542,664.

national market system plan(s) approximately 420 hours to prepare the amendment. This preliminary estimate includes 210 hours for a respondent to comply with the timestamps required by the proposed rule, including a review and any applicable change of the respondent's technical systems and rules. Each SRO already employs some form of timestamping, and the Commission does not necessarily expect that the burden to comply with the timestamp requirement would be particularly burdensome.[733] The preliminary estimate also includes 105 hours for the participants to compose the form of annual report on competing consolidator performance. Finally, the preliminary estimate includes 20 hours the participants to compile and confirm the primary listing exchange for each NMS stock. The initial burden hours for all respondents would be 420 hours × 17 (for a total cost of $2,977,380).[734]

6. Collection and Dissemination of Information by National Securities Exchanges and National Securities Associations

As discussed above, the proposed amendment to Rule 603(b) would require every national securities exchange on which an NMS stock is traded and national securities association to make available to all competing consolidators and self-aggregators all information with respect to quotations for and transactions in NMS stocks, including all data necessary to generate consolidated market data, in the same manner and using the same methods, including all methods of access and using the same formats, as such exchange or association makes available any information with respect to quotations for and transactions in NMS stocks to any person. Accordingly, the SROs would be required to collect the information necessary to generate proposed consolidated market data, which would be required to be made available under proposed Rule 603(b). The respondents to this collection of information are the 16 national securities exchanges and the one national securities association who are participants in the effective national market system plan(s). The new data elements of proposed consolidated market data that the national securities exchanges and national securities associations must make available include auction information, depth of book data, round lot data, regulatory data (including LULD price bands), and administrative data. The Commission understands that the national securities exchanges and national securities associations currently collect and/or calculate all data necessary to generate proposed consolidated market data.[735] Therefore, the Commission believes that the proposed amendments to 603(b) would impose minimal initial and ongoing burdens on these respondents, including any changes to their systems, because they already collect and provide the data necessary to generate proposed consolidated market data, including regulatory data, to the exclusive SIPs and to subscribers of their proprietary data feeds.

(a) Initial Burden and Costs

The Commission preliminarily estimates, in order to collect the information necessary to generate consolidated market data as required by proposed Rule 603(b), that a national securities exchange on which an NMS stock is traded or national securities association will require an average of 220 [736] initial burden hours of legal, compliance, information technology, and business operations personnel time to prepare and implement such a system (for a total cost per exchange of $70,865).[737]

(b) Ongoing Burden and Costs

The Commission estimates that each national securities exchange on which an NMS stock is traded and national securities association would incur an annual average burden on an ongoing basis of 396 hours to collect the information necessary to generate proposed consolidated market data required by proposed Rule 603(b) (for a total cost per exchange of $128,064).[738]

E. Collection of Information Is Mandatory

The collection of information discussed above would be a mandatory collection of information.

F. Confidentiality

1. Registration Requirements and Form CC

As discussed above, under proposed Rule 614(b)(2), the Commission would make public via posting on the Commission's website each: (i) Effective initial Form CC, as amended; (ii) order of ineffectiveness of a Form CC; (iii) filed Form CC Amendment; and (iv) notice of cessation.

2. Competing Consolidator Duties and Data Collection and Maintenance

The collection of information regarding competing consolidator duties and data collection and maintenance relates to the proposed consolidated market data that competing consolidators will collect, calculate, and provide to subscribers.

3. Recordkeeping

The collection of information relating to recordkeeping would be available to the Commission and its staff, and to other regulators.

4. Reports and Reviews

The collection of information regarding reports and reviews relates to information that would be published on competing consolidator websites.

[733] Currently, under the Equity Data Plans, the SROs attach timestamps to quotation information and transaction information provided to the exclusive SIPs. *See, e.g.,* Nasdaq UTP Plan, *supra* note 13, at Section VIII; CQ Plan, *supra* note 13, at Section VI; CTA Plan, *supra* note 13, at Section VI.

[734] The Commission estimates the monetized burden for this requirement to be $130,860. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Attorney at $417 for (420 × 17) hours)].

[735] For example, the primary listing exchanges currently calculate LULD price bands and related information to generate synthetic LULD price bands. *See* Nasdaq, Equity Trader Alert #2016–79: NASDAQ Announces Improved Protections for Equity Markets Coming Out of Halts (''Leaky Bands'') (Apr. 12, 2016), *available at https://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2016-79;* NYSE, Trader Update: NYSE and NYSE MKT: Enhanced Limit Up Limit Down Procedures (Aug. 1, 2016), *available at https://www.nyse.com/trader-update/history#110000029205;* Securities Exchange Act Release No. 34–78435 (July 28, 2016), 81 FR 51239 (Aug. 3, 2016) (SR–FINRA–2016–028).

[736] The Commission based its estimate on the burden hour estimate provided in connection with the adoption of Regulation SHO because the requirements are similar to what a national securities exchange or national securities association would need to do to comply with proposed Rule 603(b). *See* Commission, Supporting Statement for the Paperwork Reduction Act Information Collection Submission for Rule 201 and Rule 200(g) of Regulation SHO (Sept. 5, 2019).

[737] The Commission estimates the monetized initial burden for this requirement to be $70,865. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Compliance Manager at $310 for 105 hours) + (Attorney at $417 for 70 hours) + (Sr. Systems Analyst at $285 for 20 hours) + (Operations Specialist at $137 for 25 hours)] = 220 initial burden hours and $70,865.

[738] The Commission estimates the monetized ongoing, annual burden for this requirement to be $128,064. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Compliance Manager at $310 for 192 hours) + (Attorney at $417 for 48 hours) + (Sr. Systems Analyst at $285 for 96 hours)] = 336 initial burden hours and $128,064.

5. Amendment to the Effective National Market System Plan(s) for NMS Stocks

Amendments to the effective national market system plan(s) for NMS stocks would be required to be filed with the Commission pursuant to Rule 608. Once filed, the Commission would publish the amendments for public comment. Finally, the annual report of competing consolidator performance would be submitted to the Commission.

6. Collection and Dissemination of Information by National Securities Exchanges and National Securities Associations

As discussed above, the proposed amendment to Rule 603(b) would require national securities exchanges and national securities associations to collect and provide information to the competing consolidators and self-aggregators, not to the Commission. Therefore, no assurances of confidentiality are necessary because the information will be made available to the public for a fee from the competing consolidators.

G. Revisions to Current Regulation SCI Burden Estimates

As described above, the Commission is proposing to expand the definition of ''SCI entities'' under Regulation SCI to include ''competing consolidators,'' which would be defined to have the same meaning as set forth in the proposed amendments to Rule 600(b)(16) of Regulation NMS.[739] Thus, under the proposal, competing consolidators would be subject to the requirements of Regulation SCI.

The rules under Regulation SCI impose ''collection of information'' requirements within the meaning of the PRA.[740] Rule 1001(a) of Regulation SCI requires each SCI entity to establish, maintain, and enforce written policies and procedures for systems capacity, integrity, resiliency, availability, and security. Rule 1001(b) requires each SCI entity to establish, maintain, and enforce written policies and procedures to ensure that its SCI systems operate in a manner that complies with the Exchange Act, the rules and regulations thereunder, and the SCI entity's rules and governing documents, as applicable. Rule 1001(c) requires each SCI entity to establish, maintain, and enforce written policies and procedures for the identification, designation, and documentation of responsible SCI personnel and escalation procedures. Rule 1002(a) requires each SCI entity to begin to take appropriate corrective action upon any responsible SCI personnel having a reasonable basis to conclude that an SCI event has occurred. Rule 1002(b) requires each SCI entity to notify the Commission of certain SCI events. Rule 1002(c) requires each SCI entity, with certain exceptions, to disseminate information about SCI events to affected members or participants, and disseminate information about major SCI events to all members or participants. Rule 1003(a) requires each SCI entity to notify the Commission of material systems changes quarterly. Rule 1003(b) requires each SCI entity to conduct annual SCI reviews. Rule 1004 requires each SCI entity to designate certain members or participants for participation in functional and performance testing of the SCI entity's business continuity and disaster recovery plans, and to coordinate such testing with other SCI entities. Rules 1005 and 1007 set forth recordkeeping requirements for SCI entities. Rule 1006 requires, with certain exceptions, that each SCI entity electronically file required notifications, reviews, descriptions, analysis, or reports to the Commission on Form SCI.[741]

In 2018, there were an estimated 42 entities that met the definition of SCI entity and were subject to the collection of information requirements of Regulation SCI (''respondents'').[742] At that time, an estimate of approximately 2 entities would become SCI entities each year, one of which would be an SRO. Accordingly, under these estimates, over the following three years, there would be an average of approximately 44 SCI entities each year.[743]

As discussed above, the Commission preliminarily estimates that, under the current proposal, there could be 12 competing consolidators that would be subject to Regulation SCI as SCI entities.[744] As discussed below, some of these entities may already be SCI entities and subject to the requirements of Regulation SCI. While the Commission estimates that the number of respondents would increase as a result of this proposal, the Commission preliminarily believes that its prior paperwork burden estimates per entity under Regulation SCI generally would be applicable to these new competing consolidators because they would be subject to the same requirements and burdens as other SCI entities.[745] At the same time, the Commission preliminarily believes that burden estimates also should take into account the extent to which the entities that may register to become competing consolidators already comply with the requirements of Regulation SCI.

In particular, the Commission preliminarily believes that 2 of the estimated 12 competing consolidators may be the existing exclusive SIPs, which are currently subject to Regulation SCI as plan processors. Because these entities are responsible for collecting, consolidating, and disseminating proposed consolidated market data to market participants and thus would be operating a substantially similar business and performing a similar function in their role as competing consolidators, the Commission preliminarily believes that the current ongoing burden estimates for existing SCI entities would be applicable and there would be no material change in the estimated paperwork burdens for these entities under Regulation SCI.[746]

As stated above, the Commission also preliminarily believes that 4 of the entities that may register to become competing consolidators may be either: (i) An SRO currently subject to Regulation SCI; or (ii) an entity affiliated with an SCI SRO, formerly subject to Regulation SCI. The burden estimates for SCI entity respondents include both initial burdens for new SCI entities and ongoing burdens for all SCI entities.[747] Because these SRO entities that would become competing consolidators are current SCI entities and are already required to implement the requirements of Regulation SCI with regard to SCI systems that they operate in their role as

[739] *See* proposed amendment to Rule 1000 of Regulation SCI.

[740] For a complete analysis of Regulation SCI under the PRA, *see* SCI Adopting Release, *supra* note 28, at 18141; and Proposed Collection; Comment Request; Extension: Regulation SCI, Form SCI; SEC File No. 270–653, OMB Control No. 3235–0703, 83 FR 34179 (''2018 PRA Extension'').

[741] For further details regarding the requirements of Regulation SCI, *see* Regulation SCI Adopting Release, *supra* note 28. *See also* ''Responses to Frequently Asked Questions Concerning Regulation SCI,'' September 2, 2015 (updated August 21, 2019), available at: *https://www.sec.gov/divisions/marketreg/regulation-sci-faq.shtml.*

[742] *See* 2018 PRA Extension, *supra* note 740, at 34180.

[743] *Id.*

[744] *See supra* Section V.C.

[745] *See* 2018 PRA Extension, *supra* note 740. As discussed below, the Commission believes that 6 of the 12 entities estimated to register as competing consolidators are currently SCI entities. Thus, the Commission preliminarily estimates that, if the proposal were adopted, there would be an average of approximately 50 SCI entities each year.

[746] *Id.* The burden estimates for SCI entity respondents included initial burdens for new SCI entities and ongoing burdens for all SCI entities. For the reasons discussed herein, the Commission preliminarily believes that the initial paperwork burdens for new SCI entities would not be applicable to these entities.

[747] *Id.*

SCI SROs, the Commission preliminarily believes that these entities would not have initial burdens equivalent to those estimated for new SCI entities. At the same time, as discussed above, the Commission preliminarily believes that these SROs may be a national securities association and/or equities national securities exchanges that do not currently operate an exclusive SIP. Because these entities would be entering an entirely new business and performing a new function with new SCI systems, unlike the current exclusive SIPs who may register to become competing consolidators discussed above, the Commission preliminarily believes that these SRO entities would have some initial burden that would be a percentage of that which entirely new SCI entities have. In particular, the Commission preliminarily estimates that the initial burdens for existing SCI SROs who register as competing consolidators would be 50 percent of the estimated initial burdens for entirely new SCI entities. For example, the Commission believes that such SCI SROs would need to develop and draft the policies and procedures required by Rule 1001(a) for new SCI systems utilized in their role as competing consolidators, but unlike completely new SCI entities, SCI SROs would already have existing Rule 1001(a) policies and procedures in place for other types of SCI systems that they could utilize as a model and modify as needed for new SCI systems.[748] The Commission also believes that the estimated ongoing paperwork burden estimates for all SCI entities would be applicable to these entities as well.[749]

The Commission preliminarily believes that the remaining 6 estimated competing consolidators may be entities that are not currently subject to Regulation SCI. As discussed above, the Commission believes that these 6 entities may be market data aggregation firms, broker-dealers that currently aggregate market data for internal uses, and entities that would be entering the market data aggregation business for the first time.[750] Accordingly, the Commission preliminarily believes that these entities would have the same estimated initial paperwork burdens as those estimated for new SCI entities and the same ongoing paperwork burdens as all other SCI entities.[751]

H. Request for Comments

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to:

156. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

157. Evaluate the accuracy of our estimates of the burden of the proposed collection of information;

158. Determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected;

159. Evaluate whether there are ways to minimize the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

160. Evaluate whether the proposed amendments would have any effects on any other collection of information not previously identified in this section.

Persons submitting comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should also send a copy of their comments to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File Number S7–03–20. Requests for materials submitted to OMB by the Commission with regard to this collection of information should be in writing, with reference to File Number S7–03–20 and be submitted to the Securities and Exchange Commission, Office of FOIA/PA Services, 100 F Street NE, Washington, DC 20549–2736. As OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

VI. Economic Analysis

A. Introduction and Market Failures

1. Introduction

Section 3(f) of the Exchange Act requires the Commission, whenever it engages in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action would promote efficiency, competition, and capital formation.[752] In addition, Section 23(a)(2) of the Exchange Act requires the Commission, when making rules under the Exchange Act, to consider the impact such rules would have on competition.[753] Exchange Act Section 23(a)(2) prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Wherever possible, the Commission has quantified the likely economic effects of the proposed amendments. The Commission is providing both a qualitative assessment and quantified estimates of the potential economic effects of the proposed amendments where feasible. The Commission has incorporated data and other information provided by commenters to assist it in the analysis of the economic effects of the proposed amendments. However, as explained in more detail below, because the Commission does not have, and in certain cases does not believe it can reasonably obtain data that may inform the Commission on certain economic effects, the Commission is unable to quantify certain economic effects. Further, even in cases where the Commission has some data, it is not practicable due to the number and type of assumptions necessary to quantify certain economic effects, which render any such quantification unreliable. Our inability to quantify certain costs, benefits, and effects does not imply that such costs, benefits, or effects are less significant. The Commission requests that commenters provide relevant data and information to assist the Commission in analyzing the economic consequences of the proposed amendments.

In general, the Commission preliminarily believes that the proposed amendments would result in benefits by enhancing the consolidated market data content, reducing the latency of consolidated market data, and improving the dissemination of

[748] As an example, the estimate of an initial recordkeeping burden was 694 hours per new respondent to comply with the policies and procedures requirement of Rule 1001(a). *Id.* at 34180. The Commission preliminarily estimates that, for an SCI SRO who registers as a competing consolidator, the initial burden for Rule 1001(a) would be 50 percent of this estimated amount, or 347 hours.

[749] The ongoing paperwork burden estimates in the PRA Extension do not distinguish between different categories of SCI entities, but rather provides an average for all SCI entities.

[750] *See supra* Section V.D.2.

[751] *See* 2018 PRA Extension, *supra* note 740.

[752] 15 U.S.C. 78c(f).

[753] 15 U.S.C. 78w(a)(2).

consolidated market data. This would reduce information asymmetries that exist between market participants who subscribe to proprietary DOB and other proprietary products and market participants who only subscribe to SIP data, and could allow some market participants who subscribe to the more expensive proprietary DOB products to replace them with potentially cheaper consolidated market data feeds. Improvements to the content and latency of consolidated market data from the proposed amendments could also help market participants that currently rely on SIP data to make more informed trading decisions, which would facilitate their ability to trade competitively and improve their execution quality, and would facilitate best execution.

The Commission preliminarily believes there are three main benefits from the expanded content of consolidated market data, which as noted above includes proposed ''core data.'' First, the expanded content of consolidated market data could allow market participants that currently only subscribe to SIP data to get additional content from expanded consolidated market data and to experience increased gains from trade by allowing them to take advantage of trading opportunities they may not have been aware of due to the lack of information in existing SIP data.[754] Second, the expanded content of consolidated market data could also allow these market participants to improve their order routing and order execution capabilities, potentially lowering investor transaction costs. Finally, the expanded consolidated market data content and associated changes in how the NBBO and protected quotes are calculated could result in a narrower NBBO and wider protected quote in some stocks. A narrower NBBO and changes in protected quotes could affect price improvement that trading venues, including ATSs, exchanges, and internalizers, could offer.

The Commission preliminarily believes that there are costs to expanding the content of consolidated market data, including costs to new competing consolidators related to upgrading existing infrastructure in order to handle the dissemination of the increased message traffic; upgrading software and trading systems that consume consolidated market data; costs to market participants receiving consolidated market data from technological investments required to handle increased content and message traffic; as well as other costs. Expanding consolidated market data would also result in transfers among various market participants, including transfers from the current beneficiaries of asymmetric information associated with the uneven distribution of market data to market participants who currently do not have access to the additional information contained in proprietary DOB products and other proprietary products. There could also be costs to SROs associated with the dissemination of consolidated market data.

With respect to the introduction of the decentralized consolidation model, the Commission has several reasons to believe that it is likely that a sufficient number of firms would be willing to enter the space of competing consolidators so that the market would be competitive. Under this assumption, the potential economic benefits of the proposed decentralized consolidation model would include a reduction in the latency differential that exists between SIP data and proprietary data feeds (as measured at the location of market participants using the data) and potential improvements in innovation and efficiency in the consolidated market data delivery space. Moreover, the fees for proposed consolidated market data could be lower than fees that market participants pay for similar depth of book data today because today market participants would need to subscribe to both the exclusive SIPs and proprietary data feeds to receive the same content that would be included in proposed consolidated market data. However, the Commission recognizes that there is uncertainty in the fees for proposed consolidated market data because they would depend on the structure of fees ultimately proposed for data content by an effective national market system plan(s) and on the ultimate fee structure of competing consolidators.[755] The Commission also recognizes uncertainty in the fees that subscribers choosing to receive a subset of consolidated market data would pay under the proposed rule and that these subscribers could pay higher or lower fees than they do today for equivalent data.

At the same time, the introduction of the decentralized consolidation model would impose direct costs on SROs, the existing exclusive SIPs, and potential competing consolidators. It would also impose indirect costs on the existing exclusive SIPs and market participants. The direct costs for potential competing consolidators (such as SROs, exclusive SIPs, and current market data aggregators) would include registration and compliance costs and implementation and incremental infrastructure costs. The Commission, however, preliminarily believes that many of the potential competing consolidators have currently already invested in this infrastructure for the existing business services that they provide (*e.g.,* proprietary data aggregation services). The indirect costs to the existing exclusive SIPs would be a potential loss in revenue to competing consolidators from no longer being the exclusive distributors of consolidated market data. The indirect costs for market participants would include implementation costs and potential effects on prices that market participants would pay for the proposed consolidated market data. However, new fees for the data content of consolidated market data would need to be proposed by the effective NMS plan(s) for NMS stocks and filed with the Commission.

The Commission preliminarily believes that there are a number of economic effects that are only possible as a result of expanding consolidated market data and the introduction of the decentralized consolidation model. These changes would lead to the benefits of less expensive alternatives to proprietary DOB products for market participants; potential new entrants into the broker-dealer, market making, and other latency sensitive trading businesses; expansion of business opportunities for market data aggregators; improved regulatory oversight from the Consolidated Audit Trail; and enhancements to the quality of service data vendors are able to provide. Further, as noted above, the Commission preliminarily believes that the proposal would facilitate best execution and reduce information asymmetries. These changes could also result in a number of costs including costs to market participants in the form of lower revenues for SROs; higher costs for the implementation of the Consolidated Audit Trail; potentially higher costs for certain market data vendors; as well as other costs. Some of these benefits and costs would result from transfers among various market participants.

2. Market Failures

The Commission is proposing to amend Rules 600 and 603 and to adopt new Rule 614 of Regulation NMS under

[754] Here and throughout, the phrase ''gains from trade'' is meant to refer to a situation in which two market participants would each be better off if they exchanged their respective property. It captures the idea of a potential welfare benefit that could be realized if trade was allowed and possible. Generally in this proposal the relevant property will be securities and cash.

[755] *See infra* Section VI.C.2(b).

the Exchange Act to increase the availability and improve the dissemination of information regarding quotations for and transactions in NMS stocks to market participants. First, the Commission proposes to define terms ''consolidated market data,'' ''core data,'' ''regulatory data,'' and ''administrative data,'' and to enhance the content of core data to include certain odd-lot quote information, certain depth of book data, and information on orders participating in auctions. Second, the Commission proposes to introduce a decentralized consolidation model whereby competing consolidators and self-aggregators would assume responsibility for the collection, consolidation, and dissemination functions currently performed by the exclusive SIPs.[756]

As discussed above,[757] currently, some market participants have stated their view that they are unable to rely solely on SIP data to trade competitively in today's markets. One reason is that SIP data does not currently include some important data elements such as odd-lot quotations (except, as explained above,[758] to the extent that odd-lots quotations are aggregated into round lots pursuant to exchange rules), depth of book data, and information about orders participating in auctions.[759] Exchanges directly sell these additional data elements to market participants and market data aggregation firms as part of proprietary DOB data products at significant premiums to SIP products.[760] Another reason some market participants have raised concerns about SIP data is that there is a substantial latency differential between market data provided via the exclusive SIPs and proprietary data products delivered by the exchanges directly to market participants or to market data aggregators as part of proprietary data feeds.[761] The latency and content disparity between SIP data feeds and proprietary DOB data products has the effect of increasing the market participants' demand for proprietary products to the extent market participants view acquiring such products as a competitive necessity.

The Commission understands that there is an inherent conflict of interest in that the exchanges, as voting members of the Equity Data Plan operating committees, may not be incentivized to improve the content or latency of SIP data.[762] Many of the exchanges have actively pursued commercial interests that do not necessarily further the regulatory objective to ''preserve the integrity and affordability of the consolidated data stream,'' [763] which is necessary to ensure that there is a ''comprehensive, accurate, and reliable source of information for the prices and volume of any NMS stock at any time during the trading day.'' [764] One example of this divergence of interest has been the development by certain exchanges of proprietary data products with reduced latency and expanded content (*i.e.,* proprietary DOB products), without the exchanges, in their role as participants to the Equity Data Plans, similarly enhancing the data products offered by the Equity Data Plans.[765] These proprietary DOB products have evolved to be considered competitive necessities by many market participants and are offered at significant premiums to exclusive SIP products.[766] Another example of the divergence between commercial interests and regulatory goals has been the development by certain exchanges of limited TOB data products, which are offered at a discount compared to the SIP data and marketed to a more price-sensitive segment of the market, without corresponding development by the exclusive SIPs of a less expensive SIP product for the price-sensitive segment of the market.[767] The exchanges have continued to develop and enhance their proprietary market data businesses—which generate revenue that, unlike SIP data revenues, do not have to be shared with the other SROs—while remaining fully responsible for the governance and operation of the Equity Data Plans, including content, infrastructure, and pricing, as well as data consolidation and dissemination.[768] At the same time, the operation of the Equity Data Plans has not kept pace with the efforts of the exchanges to expand the content of and to employ technology to reduce the latency and increase the throughput of certain proprietary data products.

The Commission preliminarily believes that there are two additional factors related to the Equity Data Plan processors that may impede improvements to the dissemination of SIP data. First, pursuant to Regulation NMS, each exclusive SIP has exclusive rights to collect trade and quotation data related to NMS stocks from multiple SROs and then aggregate and disseminate market data to market participants.[769] This structure may further impede improvements in the dissemination of SIP data [770] because Equity Data Plan participants that govern exclusive SIPs do not have incentives to innovate due to the lack of competition in dissemination of SIP data.

Second, the exclusive SIPs are either SROs themselves or affiliates of SROs.[771] This gives them a dual role in that they serve as both existing plan processors and as entities selling directly their own proprietary market data products that can reach market participants faster than SIP data, or as affiliates of entities that do so. As discussed above, this may create an additional conflict of interest that could provide incentives making the Equity Data Plan participants that oversee the Equity Data Plans reluctant to improve the content and latency of the SIP data, because a divergence in the usefulness of SIP data provided by the exclusive SIPs as compared to the proprietary data feeds increases the value of the proprietary market data products.

B. Baseline

The Commission has assessed the likely economic effects of the proposed amendments, including benefits, costs, and effects on efficiency, competition, and capital formation, against a baseline that consists of the existing regulatory process for collecting, consolidating, and disseminating market data, and the structure of the markets for SIP data products and for connectivity and trading services.

1. Current Regulatory Process for Equity Data Plans and SIP Data

As discussed above,[772] the current regulatory framework for SIP data relies upon a centralized consolidation model, whereby the SROs provide certain quotation and transaction information for each NMS stock to a single exclusive SIP, which then consolidates this data and makes it available to market participants.[773] This SIP data includes what historically has commonly been

[756] *See supra* Sections III, IV.

[757] *Id.*

[758] *See supra* Section III.C.1(a).

[759] As explained above, only limited auction-related information is currently included in SIP data. *See supra* Section III.C.3(a).

[760] *See infra* Section VI.B.2(a).

[761] *See infra* Section VI.B.2(b).

[762] *See supra* Section IV.A; *supra* note 267 (describing an exchange-led initiative to enhance the SIPs).

[763] *See* Regulation NMS Adopting Release, *supra* note 10, at 37503.

[764] *See* Equity Market Structure Concept Release, *supra* note 11, at 3600.

[765] *See* Proposed Governance Order, *supra* note 8, at Section II.B.1.

[766] *See id.*

[767] *See id.; supra* note 25.

[768] *See* Proposed Governance Order, *supra* note 8, at Section II.B.1.

[769] *See supra* note 21 and accompanying text.

[770] *See infra* Section VI.B.2(b).

[771] *See supra* note 42.

[772] *See supra* Section II.A.

[773] *Id.*

referred to as core data, as well as certain regulatory data related to Commission and SRO rules and NMS plan requirements.[774]

As discussed in more detail below,[775] SIP data currently includes transaction information for both round lot and odd-lot sized transactions as well as quotation information for round lot top of book quotes for each SRO. Additionally, several exchanges, pursuant to their own rules, aggregate odd-lot orders into round lots and report such aggregated odd-lot orders as quotation information to the exclusive SIPs.[776] Thus, SIP data lacks information on odd-lot quotations at prices better than the best bid and offer and on depth of book quotations (*i.e.,* limit orders resting at exchanges at prices outside of the bid and offer). Additionally, only limited auction-related information is included in SIP data.[777]

Currently, the operating committees of the Equity Data Plans, which are governed exclusively by the SROs,[778] select the exclusive SIPs to consolidate and disseminate market data to market participants. The selection process for the exclusive SIPs is organized through a bidding process, and once selected, an exclusive SIP has exclusive rights to consolidate and disseminate market data for a given Equity Data Plan.[779] Currently, SIAC (a NYSE affiliate) is the exclusive SIP for the CTA and CQ Plans, and Nasdaq is the exclusive SIP for the UTP Plan.

As explained above, each exclusive SIP is physically located in a different data center.[780] The exchanges' primary data centers are also located in different locations. Each exchange and FINRA must transmit its quotation and transaction information from its own data center to the appropriate exclusive SIP's data center for consolidation, at which point SIP data is then further transmitted to market data end-users, which are often located in other data centers. The exclusive SIPs do not compete with each other in the collection, consolidation, or dissemination of SIP data. As discussed in more detail below,[781] the dispersed physical locations of exclusive SIPs and SROs contribute to increased latency in delivering SIP data to market participants.

2. Current Process for Collecting, Consolidating, and Disseminating Market Data

As discussed above,[782] in addition to the provision of SIP data pursuant to the Equity Data Plans, the national securities exchanges separately sell their individual proprietary market data products directly to market participants via proprietary data feeds. Proprietary data feeds may include SIP data elements and a variety of additional data elements and can vary in content from proprietary top of book products to proprietary depth of book products.[783] In addition, in connection with proprietary data feed products, the exchanges offer various connectivity services (*e.g.,* co-location at primary data centers, fiber optic connectivity, wireless connectivity, and point-of-presence connectivity at third-party data centers), which may result in higher speed transmissions.[784] Typically, proprietary data is transmitted directly from each exchange to the data center of the subscriber, where the subscriber's broker-dealer or vendor (or the subscriber itself) privately consolidates such data with the proprietary data of the other exchanges. This section describes the current content of SIP data and proprietary data feeds, current process of data dissemination, and current process for costs of generating SIP data and proprietary data feeds.

(a) Current Content of SIP Data and Proprietary Data Feeds

As discussed above,[785] today SIP data does not include some of the content that certain market participants rely on when handling customer orders and trading. The Commission preliminarily believes that while a large portion of retail investors rely solely on SIP data for trading decisions,[786] a certain portion of market participants do not rely solely on SIP data to trade competitively in today's markets and instead purchase proprietary data from SROs to supplement or even replace SIP data.[787] In particular, the Commission understands that approximately 50 to 100 firms purchase all of the DOB proprietary feeds from the exchanges and do not rely on the SIP data for their trading.[788] Conversely, the number of users of the SIP data is much larger (in the millions),[789] suggesting that many users rely on the exclusive SIPs alone. This creates significant information asymmetries between market participants who rely solely on SIP data and market participants who also rely on proprietary data feeds.

As described in Section II.A above, SIP data consists of certain quotation[790] and transaction data[791] that the SROs are required to provide to the exclusive SIPs for consolidation and dissemination to the public on the consolidated tapes. Specifically, the SIP data includes: (1) An NBBO;[792] (2) the best bids and best offers from each SRO;[793] and (3) information on trades such as prices and sizes. The SIP data also includes certain regulatory data,

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[774] *Id.*

[775] *See infra* Section VI.B.2(a); *supra* Section III.C.1.

[776] *See supra* Section III.C.1(a).

[777] *See supra* Section III.C.3.

[778] Under the Proposed Governance Order, the operating committee of the New Consolidated Data Plan would include non-SRO members. *See* Proposed Governance Order, *supra* note 8.

[779] The Nasdaq UTP Plan contains the description of its approach to the selection and evaluation of the processor. *See* Nasdaq UTP Plan, *supra* note 13, at 10. The CTA/CQ Plan does not contain a similar provision. *See* CTA Plan, *supra* note 13; CQ Plan, *supra* note 13. Historically, exchanges or exchange affiliates had always been selected to be plan processors.

[780] *See supra* Section II.A; *supra* note 43.

[781] *See infra* Section VI.B.2(a); *supra* Section IV.A.

[782] *See supra* Section II.A.

[783] *See supra* Section III.C.2.

[784] *See supra* note 51 and accompanying text; *supra* Section IV.A.

[785] *See supra* Section III.C.

[786] In response to a question about the need for Nasdaq's other market data products since the exclusive SIPs consolidate all market data, Nasdaq has stated: ''[t]here are a minority of market participants who want data that go 'deeper' than SIP data, such as pending buy and sell interest at different price levels. For these customers of market data, Nasdaq and other firms offer proprietary products that include so-called 'depth of book' and related auction data from our exchanges.'' *See* Nasdaq, Revenues Trend Down for U.S. Stock Market Data Backbone (Mar. 14, 2018), *available at https://www.nasdaq.com/articles/revenues-trend-down-us-stock-market-data-backbone-2018-03-14.*

[787] The Commission preliminarily believes that when market participants purchase proprietary data feeds to replace SIP data, they also almost always purchase SIP data as a back-up system to proprietary data. *See also supra* note 101.

[788] *See supra* note 140.

[789] As of the fourth quarter of 2018, there were approximately 2–3 million non-professional and approximately 0.3 million professional use cases across the UTP and CTA/CQ SIPs. Additionally, there were approximately 300 non-display vendor use cases at each of the exclusive SIPs. The Commission understands that there is an overlap in subscribers across the exclusive SIPs. *See, e.g.,* CTA Plan, Q3 2019 CTA Tape A & B Quarterly Population Metrics, *available at https://www.ctaplan.com/publicdocs/CTAPLAN_Population_Metrics_3Q2019.pdf;* Nasdaq UTP Plan, Q3 2019 UTP Quarterly Population Metrics, *available at http://www.utpplan.com/DOC/UTP_2019_Q3_Stats_with_Processor_Stats.pdf.*

[790] *See* Rule 602 of Regulation NMS, 17 CFR 242.602.

[791] *See* Rule 601 of Regulation NMS, 17 CFR 242.601.

[792] The national best bid and offer are constructed from the best bid and offer prices across all exchanges in which the quoted size is at least one round lot. *See supra* Section III.C.1.

[793] The best bids and offers on an exchange are determined by the best prices in which the quoted size is at least one round lot. Some exchanges aggregate odd-lot orders at better prices into round lots and report such aggregated orders as their best bid or offer at the least aggressive price of the aggregated orders. Typically, the best bids and offers on each exchange are protected quotes under NMS Rule 611 and cannot be traded-through. *See supra* Section III.C.1(a).

such as information required by the LULD Plan,[794] information relating to regulatory halts and MWCBs,[795] information regarding short sale circuit breakers,[796] and other data, such as data relating to retail liquidity programs, market and settlement conditions, the financial condition of the issuer, OTCBB data, last sale prices for corporate bonds, and information about indices.[797]

The exchanges separately sell their individual market data directly to market participants via proprietary data feeds. For example, the exchanges have developed proprietary DOB products that provide greater content (*e.g.,* odd-lot quotations, orders at prices above and below the best prices, and information about orders participating in auctions, including auction order imbalances) at lower latencies,[798] relative to the exclusive SIPs, for certain segments of the data market, such as automated trading systems. They have also developed proprietary TOB products that provide data that is generally limited to the highest bid and lowest offer and last sale price information at a lower price for another segment of the data market that is less sensitive to latency (*e.g.,* retail or non-professional investors and wealth managers that access market data visually).[799] Proprietary data feeds are available as part of exchanges' standard offerings. All exchanges, with the exception of IEX,[800] offer for sale as part of their proprietary DOB products the complete set of orders at prices above and below the best prices (*e.g.,* depth of book data), complete odd-lot quotation information, and information about orders participating in auctions, including auction order imbalances (for listing exchanges).[801]

One notable gap between SIP data and proprietary DOB data is that SIP data does not include complete odd-lot quotation information even though odd-lots represent a large share of all trades in the U.S. stock market and can represent economically significant trading opportunities at prices that are better than the prices of displayed and disseminated round lots.[802] While several exchanges aggregate odd-lot orders into round lots and report such aggregated orders as quotation information to exclusive SIPs,[803] market participants must purchase proprietary data feeds, available from the exchanges, to see the odd-lot quotations that are priced better than the best bid or offer.[804]

Odd-lot transactions make up a significant proportion of transaction volume in NMS stocks, including ETPs. As discussed above,[805] based on data from the SEC's MIDAS analytics tool, the daily exchange odd-lot rate (*i.e.,* the number of exchange odd-lot trades as a proportion of the number of all exchange trades) for all corporate stocks ranged from approximately 29% to 42% of trades and the daily exchange odd-lot rate for all ETPs ranged from 14% to 20% of trades in 2018, with the daily exchange odd-lot rate for all corporate stocks exceeding 50% several times in June 2019 (and exceeding 65% several times for the top decile by price) and reaching almost 30% for all ETPs in the same period.

Additionally, the staff analysis, referenced above, found that a significant portion of quotation and trading activity occurs in odd-lots, particularly for frequently traded, high-priced tickers, and that as stock prices rise, the difference in spreads calculated using the different feeds also rises, indicating that odd-lots are more likely to set the best quote as stock prices rise.[806] In addition, one commenter provided data supporting the findings of the staff analysis and showing that the odd-lot quotes provide superior pricing compared to the SIP data.[807] A panelist at the Roundtable stated that odd-lot quotation data is needed to make effective decisions in trading applications and to fill client orders effectively.[808] The Commission is unable to differentiate in the data between original round lot quotes and odd-lot quotes that were aggregated by the exchanges to be a round lot quote. The Commission invites comments on this issue.

Another gap between SIP data and proprietary DOB data is that SIP data currently lacks quotation information in NMS stocks beyond the top of book[809] even though the decimalization of securities pricing in 2001 led to a dispersion of quoted volume away from the top of book. Consequently, the NBBO currently shown in SIP data became less informative and some market participants have come to view depth of book data as necessary to their efforts to trade competitively and to provide best execution to customer orders.[810] Market participants interested in such depth of book data must rely upon the proprietary DOB products offered by the exchanges that include varying degrees of depth data.[811]

A staff review of depth of book quotations for corporate stocks using data from July 19, 2019, referenced above,[812] revealed that there is a substantial amount of quotation volume at several levels below the best bid. During active parts of the trading day, there is quotation interest at every $0.01 increment at least ten levels out for the most liquid stocks; for the least liquid stocks, there is a large gap between the best bid and the next highest bid and large gaps are generally also present between the next several bid levels.

The Commission recognizes that market participants have diverse market data needs. Depth of book data can assist SORs and electronic trading systems with the optimal placement of orders across markets. Specifically, depth of book data can help market participants improve trading strategies and lower execution costs by placing liquidity taking orders that are larger than the displayed best bid or best offer

[794] *See supra* note 38.

[795] *See supra* note 39.

[796] *See supra* note 40.

[797] *See supra* note 41.

[798] *See, e.g.,* Nasdaq Global Data Products, Real-Time—NYSE Proprietary Market Data, and Cboe Equities Exchanges Market Data Product Offerings, *supra* note 19 (describing low-latency DOB data products).

[799] Examples of such proprietary TOB products include NYSE BBO, Nasdaq Basic, and Cboe One Feed. *See supra* note 19. NYSE BBO provides TOB data. Nasdaq Basic and Cboe One's Summary Feed provide TOB and last sale information. Nasdaq Basic also provides Nasdaq Opening and Closing Prices and other information, including Emergency Market Condition event messages, System Status, and trading halt information. Cboe One also offers a Premium Feed that includes DOB data. Each of these products is sold separately by the relevant exchange group. *See* TD Ameritrade Letter, *supra* note 19, at 5–8 (stating that the lower cost of exchange TOB products, coupled with costs associated with the process to differentiate between retail professionals and non-professionals imposed by the Equity Data Plans, and associated audit risk, favors retail broker-dealer use of exchange TOB products).

[800] IEX makes proprietary data available but does not charge for it. *See, e.g.,* IEX, Market Data, *available at https://iextrading.com/trading/market-data/* (last accessed Jan. 8, 2020); Ramsay Letter II.

[801] *See supra* note 335.

[802] *See* Alexander Osipovich, *supra* note 166.

[803] *See supra* Section III.C.1(a). Exchange rules specify how the aggregation process works in different terms and with different levels of specificity, but many exchanges aggregate odd-lots across multiple prices and provide them to the exclusive SIPs at the least aggressive price if the combined odd-lot interest is equal to or greater than a round lot. *See supra* notes 157, 158, 789.

[804] *See supra* note 163.

[805] *See supra* Section III.C.1(b).

[806] *Id.* The staff analysis in Section III.C.1(b) found that for the 500 top tickers by dollar volume, odd-lot quotes represented a significant price improvement over the exclusive SIP quotes. This analysis further found that as the price of the stock increased, the duration-weighted amount by which the odd-lot quote improved on the SIP quote increased as well.

[807] *See supra* note 177 and accompanying text.

[808] *See supra* note 173 and accompanying text.

[809] *See supra* Section III.C.2.

[810] *See supra* Section III.C.2(d).

[811] *See supra* note 270.

[812] *See supra* Section III.C.2(d).

and achieve queue priority for liquidity providing orders that post at prices away from the best bid or offer.[813] At the same time, the depth of book data may be less valuable to a certain segment of market participants (*e.g.,* retail or non-professional customers). For example, a relatively small portion of orders execute at prices outside the NBBO indicating that some market participants do not find ''walking the book'' useful.[814]

Finally, yet another gap between SIP data and proprietary DOB data is that SIP data includes only limited auction-related information even though auctions, especially opening and closing auctions, represent a significant proportion of trading volume on the primary listing exchanges.[815] In particular, auctions account for approximately 7% of daily equity trading volume.[816] Auctions are important for the implementation of passive investment strategies and generate prices that are used for a variety of market purposes, including setting benchmark prices for index rebalances and for mutual fund pricing. As such, the Commission recognizes that auction information may be valuable to a certain segment of market participants (*e.g.,* those market participants that participate or would participate in auctions).

Today, some NYSE auction data, such as pre-opening indicators,[817] is disseminated through the CTA/CQ SIP, and no auction information generated by the other primary listing exchanges is distributed through the exclusive SIPs, except very limited LULD information related to auction collar messages.[818] Thus while the exchanges' proprietary data includes detailed information on several aspects of their auctions, only a small subset of the auction-related information is included in SIP data.[819]

While all listing exchanges make auction information available to market participants through proprietary data feeds, only some exchanges offer this information through specialized feeds for a lower price than full DOB products. For instance, NYSE Order Imbalances is an example of such proprietary auction data product offered by NYSE,[820] while Nasdaq does not offer such specialized product.[821]

Currently, the gap in information between data in the exclusive SIP and proprietary DOB products may limit the current level of price efficiency if market participants with access to proprietary DOB products do not incorporate this information into prices quickly enough through their trading or quoting activity.[822] However, the Commission does not know the extent of this possible effect.

(b) Current Process for Dissemination of SIP Data and Proprietary Data Feeds

As discussed above,[823] today SIP data is disseminated to investors and market participants through a centralized consolidation model with an exclusive SIP for each NMS stock, centrally collecting market data transmitted from the dispersed SRO data centers and then redistributing the consolidated market data to market participants who are often in different locations. The SROs typically transmit their market data through fiber optic cables to the SIPs.[824]

Typically, proprietary data is transmitted directly from each exchange to the data center of the subscriber and does not first travel to a centralized consolidation location. Furthermore, unlike the standardized transmission of SIP data over fiber optic cable, proprietary data is frequently transmitted using low-latency wireless connectivity or other forms of connectivity (often provided by the exchanges) that are faster than fiber.[825]

There is a significant latency differential between SIP data and the proprietary market data products that are delivered directly to market participants or to market data aggregators who generally have better connectivity, communications, and aggregation technology than the SIPs.[826] Specifically, the centralized consolidation model has three sources of latency: (a) Geographic latency; (b) aggregation or consolidation latency; and (c) transmission or communication latency. The latency differentials between SIP data and proprietary data, in their various forms, are meaningful as detailed below, and market participants believe these differentials impact their ability to trade and their order execution quality.[827]

Geographic latency refers to the time it takes for data to travel from one physical location to another. Greater distances usually equate to greater geographic latency, though geographic latency is also affected by the mode of data transmission. The Commission understands that geographic latency is typically the most significant component of the additional latency that SIP data feeds experience compared to proprietary data feeds.[828] Because each exclusive SIP must collect data from geographically-dispersed SRO data centers, consolidate the data, and then

[813] *See id.; infra* Section VI.C.1(b)(ii).

[814] That is, an order so large that it executes against all the volume at the top of the book and then executes against orders behind the top of the book. *See* Craig W. Holden and Stacey Jacobsen, Liquidity Measurement Problems in Fast Competitive Markets, 69 J. FIN. 1760, at Table I (2014) (showing that 3.3% of orders clear outside the NBBO). This does not necessarily mean that limit orders outside the NBBO are irrelevant. There are limitations to using the observation of trades at prices outside the NBBO at the time of trade execution as an indicator for orders that executed at prices outside of the NBBO at the time of trade order (specifically, these events are not necessarily the same thing).

[815] *See supra* note 330.

[816] *See supra* Section III.C.3(c); *supra* note 348.

[817] *See* NYSE Rule 15.

[818] *See supra* note 333; UTP Plan, UTP Participant Input Specification (Dec. 3, 2019), *available at http://www.utpplan.com/DOC/UtpBinaryInputSpec.pdf.*

[819] *See, e.g.,* NYSE, TAQ NYSE Order Imbalance—Quick Reference Card, *available at https://www.nyse.com/publicdocs/nyse/data/TAQ_NYSE_Order_Imbalance_QRC.pdf* (last accessed Jan. 8, 2020).

[820] *See* NYSE, Real-Time Data Imbalances, *available at https://www.nyse.com/market-data/real-time/imbalances* (last accessed Jan. 8, 2020) (describing the NYSE Order Imbalances product).

[821] The Nasdaq Net Order Imbalance Indicator is a feature of Nasdaq's BookViewer proprietary data feed product rather than a stand-alone product. *See* Nasdaq, Net Order Imbalance Indicator, *available at https://data.nasdaq.com/NOII.aspx* (last accessed Jan. 8, 2020).

[822] *See infra* Section VI.D.1. Price efficiency is greater when prices reflect current information faster.

[823] *See supra* Sections I, II.A.

[824] *See supra* Section II.A.

[825] *Id.*

[826] *See supra* note 397; Bartlett and McCrary, *supra* note 418, at 45.

[827] *See supra* note 412 and accompanying text; Martin Scholtus et al., Speed, algorithmic trading, and market quality around macroeconomic news announcements, 38 J. BANKING & FIN. 89 (2014) (''This paper documents that speed is crucially important for high-frequency trading strategies based on U.S. macroeconomic news releases. Using order-level data on the highly liquid S&P 500 ETF traded on Nasdaq from January 6, 2009 to December 12, 2011, we find that a delay of 300 ms or more significantly reduces returns of news-based trading strategies.''); Grace Hu et al., Early peek advantage? Efficient price discovery with tiered information disclosure, 126 J. FIN. ECON. 399 (2017) (''Calibrating the speed of price discovery at a finer scale, we find that the first 200;milliseconds at 9:54:58 accounts for 89% of the one-second return at 9:54:58 on negative news days, and 85% of the one-second return at 9:54:58 on positives news days. In other words, most of the price discovery happens during the first 200 milliseconds, faster than the blink of an eye.''); Tarun Chordia et al., Low Latency Trading on Macroeconomic Announcements (Jan. 2016), *available at https://www.business.unsw.edu.au/About-Site/Schools-Site/banking-finance-site/Documents/Low-Latency-Trading-on-Macroeconomic-Announcements.pdf* (''Trading in the direction of the announcement surprise results in average dollar profits (across market participants) of $19,000 per event for the S&P500 ETF. Profits are larger for index futures, roughly $50,000 per event, yet this dollar amount translates to just two basis points of return relative to the $80 million of notional value traded in the direction of the surprise, and our measured profits do not account for commissions or the expense incurred in subscribing to real-time data services.'').

[828] *See supra* Section IV.A.

disseminate it from its location to end-users, which are often in other locations, this hub-and-spoke form of centralized consolidation creates additional latency.[829] The Commission understands that the geographic latency of SIP data may be up to a millisecond.[830]

Aggregation or consolidation latency refers to the amount of time an exclusive SIP takes to aggregate the multiple sources of SRO market data into SIP data and includes the time it takes to calculate the NBBO. This latency reflects the time interval between when an exclusive SIP receives data from an SRO and when it disseminates consolidated data to the end-user. Even though in recent years the exclusive SIPs made improvements to address aggregation latency, the related latency differential remains: as mentioned above, in the second quarter of 2019, for Tapes A and B average quote feed and average trade feed aggregation latencies were 69 and 139 microseconds, respectively.[831] In the same time period, the Tape C aggregation latency was an average of 16.9 microseconds for quotes and 17.5 microseconds for trades.[832] Notably, these latency differentials remain even though the Equity Data Plans' operating committees have made some improvements to certain aspects of the exclusive SIPs and related infrastructure, including improvements to address aggregation latency.[833]

Although exclusive SIPs are tasked with calculating and disseminating the NBBO, at each particular instant the NBBO being used by various market participants could be different due to market participants using proprietary data feeds. In particular, because of geographic and aggregation latencies, market participants that aggregate proprietary data feeds internally or that purchase proprietary data feeds from market data aggregators are likely to have NBBO quotes different from each other and different from the NBBO quote distributed by the exclusive SIPs.

Transmission latency refers to the time interval between when data is sent (*e.g.,* from an exchange) and when it is received (*e.g.,* at an exclusive SIP and/or at the data center of the subscriber), and the transmission latency between two fixed points is determined by the transmission communications technology through which the data is conveyed. Transmission latency also varies depending on the geographic distance between where the data is sent and where it is received. There are several options currently used for transmitting market data, such as fiber optics, which typically are used by the exclusive SIPs for receipt and dissemination of SIP data, and wireless microwave connections, which the exchanges offer as an alternative for their proprietary data feeds but not for SIP data.[834] Fiber optics are generally more reliable than wireless networks since the data signal is less affected by weather. The modes of transmission for SIP data are typically slower than the modes of transmission used for proprietary data. For instance, the Commission understands that currently each of the CTA/CQ Plan participants must transmit its data through connectivity options that have a round-trip latency of at least 280 microseconds.[835]

The Commission preliminarily believes that the benefits of greater speed on the timescales at which the market currently measures latency have mostly to do with being faster than one's competitors. That is, the Commission understands that a speed increase on the microsecond timescale is less useful unless it makes a market participant faster than its rivals in the market. This means that in some situations small latency differentials that leave enough time for certain market participants to observe and react to information before other, slower market participants can be as costly to slower market participants as larger latency differentials.[836]

Currently, some market participants obtain proprietary data feeds from many SROs.[837] Of these market participants, some prefer to have consolidated proprietary data. There are two ways these market participants can obtain consolidated data. First, market participants may independently create consolidated data by purchasing individual exchange proprietary market data products and consolidating that information for their own use.

Second, market participants may obtain consolidated data from market data aggregators, which are mostly firms that purchase direct access to exchange data,[838] consolidate the data, and disseminate the data (after various levels of processing) to market participants.[839] Additionally, some market data aggregators do not purchase direct access to exchanges. Instead they provide hardware and software for market data aggregation to the parties that have contractual relationships to purchase or license the market data. These market data aggregators offer the opportunity for market participants to outsource the significant hardware, software, and personnel expertise that is required to consolidate the proprietary feeds directly. The products provided by these market data aggregators are used by many of the most sophisticated market participants in the market, and despite the fact that they create an additional chain link between market participants and proprietary feeds, the Commission preliminarily believes that these firms still deliver the data to the market participants faster than the exclusive SIPs.[840]

(c) Current Costs of Generating SIP Data and Proprietary Data Feeds

As mentioned above,[841] currently the exclusive SIPs consolidate and disseminate SIP data to market participants. The data fees that exclusive SIPs charge to market participants for obtaining SIP data are set by the operating committees of the Equity Data Plans.[842] A portion of the

[829] *Id.*

[830] *See supra* note 396.

[831] *See supra* Section IV.A.

[832] *Id.*

[833] *Id.*

[834] *Id.*

[835] *See supra* note 410.

[836] Academic literature examines the effects of trading speed on revenues, adverse selection, and liquidity. *See, e.g.,* Matthew Baron et al., Risk and Return in High-Frequency Trading, 54 J.Fin. & Quantitative Analysis 993 (2019) (testing the connection between high frequency trading (''HFT'') latency and trading performance; the authors find that relative latency matters and that ''HFT firms exhibit large, persistent cross-sectional differences in performance, with trading revenues disproportionally accumulating to a few firms.'' Furthermore, when HFT firms use their relative latency advantages to trade on news to create short-term arbitrage opportunities, they generate adverse selection on slower traders.); Bruno Biais et al., Equilibrium fast trading, 116 J. Fin. Econ. 292 (2015) (arguing that fast trading technology ''provides advance access to value-relevant information, which creates adverse selection, lowering welfare,'' and ''generates a negative externality''); Thierry Foucault et al., Toxic Arbitrage, 30 Rev. Fin. Stud. 1053 (2017) (providing evidence that ''[a]rbitrage opportunities due to asynchronicities in the adjustment of prices to news are toxic because they expose dealers to the risk of trading with arbitrageurs at stale quotes.'' The authors then claim that these toxic arbitrage opportunities that come with higher trading speed impair market liquidity.).

[837] The exchanges, as a subset of SROs, sell proprietary data feeds to market participants.

[838] As mentioned below, even when obtaining consolidated market data from market data aggregators, market participants also have to pay data fees directly to the exchanges. *See infra* Section VI.B.2(c).

[839] Market participants who consolidate market data independently may use other market data aggregators' products and services such as software.

[840] *See, e.g.,* Roundtable Day One Transcript at 128–129 (Mark Skalabrin, Redline Trading Solutions).

[841] *See supra* Section VI.B.1.

[842] Currently, these fees are immediately effective on filing, although the Commission has the ability to abrogate them. *See* Rule 608(b)(3)(i) and (iii), 17 CFR 242.608(b)(3)(i) and (iii). The Commission recently proposed to amend Rule 608 to rescind the

Continued

SIP data revenues is used to pay for the cost of maintaining and administering the exclusive SIP,[843] and the remaining funds are distributed to the SRO members proportionately to their trading and quoting activity.[844] In the case of the UTP SIP, there is an additional FINRA cost for the oversight of the OTC markets that is also taken out of the exclusive SIP's revenues before distributing funds to the plan participants.

Exclusive SIP revenues from data fees totaled more than $430 million in 2017.[845] There are three broad categories of SIP data fees: Access fees, content fees, and distribution/redistribution fees.[846] An access fee is a flat monthly fee for physical connectivity to SIP data and does not depend on the type of market participant (*e.g.,* market data vendor vs. institutional broker).

There are three categories of content fees that depend on how market participants access SIP data. First, if SIP data is displayed for market participants on computer screens or other devices, the market participant is charged a display fee (a professional or a non-professional subscriber fee depending on the type of market participant). These fees can be per screen displaying the data, per user as part of the multi instance single user (MISU) program, and per application where multiple applications can run on one screen. Second, if SIP data is not displayed on computer screens and instead is directly sent to an automated system such as a trading algorithm or a smart order router, then the market participant is charged a non-display fee. Display and non-display fees are monthly fees and entitle the subscriber to an unlimited amount of real-time market information during the month. In 2018, around 65% to 75% of total SIP revenue was accounted for by professional and non-professional display fees, and around 8% to 13% of revenue was accounted for by non-display fees.[847] A third type of content fee is the query quote fee, which are fees collected from market participants accessing SIP data on a per quote basis. Under the per-query fee structure, subscribers are required to pay an amount for each request for a packet of real-time market information. Around 4% to 10% of total SIP revenue is accounted for by quote query fees in 2018.[848] Finally, exclusive SIPs charge distribution/redistribution fees when the market data is delivered to a user other than the initial purchaser.

Based on the exclusive SIPs' public disclosures, as of fourth quarter of 2018 there were approximately 2–3 million non-professional subscription use cases and approximately 0.3 million professional subscription use cases across the UTP and CTA/CQ SIPs. Additionally, there were approximately 300 non-display vendor use cases at each of the exclusive SIPs.[849] The Nasdaq UTP SIP operating expenses totaled around $7 million in 2017.[850] The CTA/CQ SIP operating expenses totaled around $8.8 million in 2018.

The Commission preliminarily believes that there is a substantial difference between the fees market participants pay for SIP data and the fees they pay for proprietary DOB data products. For instance, monthly non-display fees charged by the CTA/CQ SIP is $2,000 for Network A and $1,000 for Network B,[851] while monthly non-display fees charged by NYSE as part of proprietary data feed is $20,000,[852] which is an order of magnitude larger than the SIP data fee. Additionally, proprietary data feed fees have increased significantly over the past decade. For instance, SIFMA estimates that between 2010 and 2018 data fees charged by some exchanges went up by three orders of magnitude or more.[853] In comparison, SIP data fees went up by 5% during the same time period.[854] Based on Commission staff experience, the Commission understands that the number of subscribers to proprietary market data is relatively small.[855] The Commission understands that the number of subscribers of proprietary market data and proprietary market data revenues vary across exchanges and that some exchanges obtain a larger percentage than other exchanges of their total market data revenue from proprietary data products (as opposed to revenue from SIP data products). For example, the Commission estimates that in 2018, NYSE collected approximately 5% of its net revenues from selling proprietary market data products. On the other hand, according to the Commission's estimates, Cboe BYX collected approximately 9% of its revenues from selling proprietary market data products.[856]

As mentioned above,[857] market participants who purchase proprietary data feeds from multiple SROs may

effective-on-filing nature of the fees and make them subject to the procedures in Rule 608(b)(1) and (2) for NMS plan amendments. If adopted as proposed, the Commission would publish a proposed fee and provide an opportunity for public comment on the proposed fee, and the proposed fee would not become effective unless approved by the Commission. *See* Effective on Filing Proposal, *supra* note 37.

[843] Once an exclusive SIP is selected, upgrades to that processor's SIP infrastructure are mandated and funded by the operating committee of the relevant Equity Data Plan. This comes out of SIP revenues distributed to the SROs.

[844] The market data revenue allocation formula is summarized at, *e.g.,* UTP Plan, Summary of Market Data Revenue Allocation Formula, *available at http://www.utpplan.com/DOC/Revenue_Allocation_Formula.pdf* (last accessed Jan. 8, 2020). FINRA rebates a portion of the SIP revenue it receives back to broker-dealer internalizers and ATSs based on the trade volume they report. *See* FINRA Rule 7610B. One Roundtable commenter estimated that from 2013 to 2017, through the Nasdaq/UTP plan, the FINRA/Nasdaq TRF gave 83 percent of SIP revenue it received to broker-dealers. *See* Wittman Letter, *supra* note 290, at 19.

[845] *See* Proposed Governance Order, *supra* note 8.

[846] *See, e.g.,* CTA Plan, Q3 2019 CTA Quarterly Revenue Disclosure, *available at https://www.ctaplan.com/publicdocs/Q3_2019_CTA_Quarterly_Revenue_Disclosure.pdf;* Nasdaq UTP Plan, Q3 2019 UTP Quarterly Revenue Disclosure, *available at http://www.utpplan.com/DOC/UTP_Revenue_Disclosure_Q32019.pdf;* Jones Letter, *supra* note 291.

[847] *Id.*

[848] *Id.*

[849] *See supra* note 789.

[850] Operating expenses for the Nasdaq UTP Plan represent support costs, paid to the SIP, and are a pre-determined amount agreed upon by the Nasdaq UTP Plan's SRO participants. The Nasdaq UTP SIP costs do not include the costs of the exchanges generating the data they send to the Nasdaq UTP SIP. The UTP Plan also incurs administrative costs and other miscellaneous expenses, which together totaled around $3.6 million.

[851] *See* CTA Plan, Schedule of Market Data Charges (Jan. 1, 2015), *available at https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/Schedule%20Of%20Market%20Data%20Charges%20-%20January%201,%202015.pdf.*

[852] *See* SIFMA Letter.

[853] *See* SIFMA Letter.

[854] SIFMA's study submitted in connection with the Roundtable contained analysis examining the change in fees that some broker-dealers paid for CTA SIP data between 2010 and 2018. The analysis showed that CTA SIP fees for most categories of data increased by an average of 5% between 2010 and 2018. However, the change in the total amount each broker-dealer spent on CTA SIP data varied based on the type of broker-dealer. The analysis found that the average amount of money spent on CTA SIP data by retail broker-dealers declined by 4% between 2010 and 2017, but the average amount spent by institutional broker-dealers increased by 7%. *See id.* at 21–28.

[855] *See supra* note 140.

[856] *See infra* Section VI.B.2(d). The Commission estimates are based on NYSE and Cboe BYX's Form 1 filings and UTP and CTA/CQ revenue metrics. NYSE's Form 1 filings disclose $968 million as its net revenues in 2018. NYSE's revenues from the SIP redistribution is approximately $47 million. Note 2 to the exchange's financial statements states that NYSE collects market data revenues from the exclusive SIPs and ''to a lesser extent for (sic) New York Stock Exchange proprietary data products,'' indicating that the approximately $47 million in revenues from SIP data could be a benchmark for their proprietary market data revenues. NYSE Form 1, *available at https://www.sec.gov/Archives/edgar/vprr/1900/19003689.pdf* (last accessed Jan. 29, 2020). Similarly, Cboe BYX Form 1 filings report $58 million in net revenues. Of this $58 million, $26 million were market data revenue—approximately $21 million from SIP data revenues and $5 million from proprietary market data revenues. Cboe BYX Form 1, *available at https://www.sec.gov/Archives/edgar/vprr/1900/19003669.pdf* (last accessed Jan. 29, 2020).

[857] *See supra* Section VI.B.2(b).

choose to self-aggregate multiple data feeds, or, alternatively, they can purchase already consolidated data from market data aggregators. The exchanges charge a data fee to any market participant that purchases exchanges' data from market data aggregators.[858] Therefore, these fees are effectively a part of the total price that a market participant must pay when purchasing data from a market data aggregator. In some cases, these fees may be so high that only a subset of market participants can afford to self-aggregate proprietary feeds from all exchanges or purchase market data aggregator products.[859] The Commission preliminarily believes that more active market makers and some sophisticated broker-dealers including a number of HFT firms and some of the larger banks with proprietary data feed trading desks either self-aggregate or purchase aggregation services or products from third-party vendors.

Based on Commission staff expertise, the Commission understands that the data fees the exchanges charge to market participants that purchase the exchanges' data from market data aggregators may account for a significant portion of the total price market participants pay for the market data aggregators' data products. However, the Commission does not have information on the pricing of market data aggregators' data and cannot break down market data product prices between the direct data fees charged by the exchanges and the fees charged by market data aggregators for their services; the Commission invites comments on the issue.

Among other fees, the exchanges charge fees for various connectivity services they offer (*e.g.,* co-location, fiber connectivity, and wireless connectivity). Connectivity services permit a customer to access an exchange's proprietary market data and/or its trading and execution systems as well as SIP data. The purchase and use of certain connectivity services is necessary to directly access an exchange's market data and to directly participate in that market, at least for those market participants that represent the vast majority of trading activity on exchanges. Additionally, these connectivity services may be needed in order to take advantage of the reduced latencies offered by the proprietary data feeds, including when market participants prefer the contents of SIP data consolidated from the proprietary data feeds—rather than delivered by an exclusive SIP—to avoid additional latencies.

Connectivity fees can be substantial. For instance, the annual fiber connectivity fees per port at the exchanges' primary data centers are $90,000 at Cboe, $120,000 at Nasdaq, and $168,000 at NYSE.[860] Co-location services may have two components: An initial fee and an ongoing monthly fee based on the kilowatt (kW) usage. For example, at NYSE an initial fee for a dedicated high-density cabinet that consumes 9kW per month is $5,000, and an ongoing monthly fee per kW is $1,050.[861] At Nasdaq, an initial fee is $3,500, and an ongoing monthly fee is $4,500.[862] Thus, for a year of co-location in a dedicated cabinet with 9kW power, these fees add up to over $118,000 for NYSE and over $57,000 for Nasdaq.

(d) Current Aggregate Exchange Revenues From Selling Market Data and Connectivity

The Commission estimates that in 2018 the exchanges earned a total revenue of approximately $941 million from selling both proprietary and SIP market data products and connectivity services in the equities market. In addition, the Commission estimates that the exchanges earned approximately $596 million of this $941 million revenue from selling market data products and approximately $345 million of this revenue from selling connectivity services. With respect to the revenue from market data products, the Commission estimates that in 2018 the exchanges earned approximately $327 million of the $596 million revenue from equity SIP data and approximately $269 million from selling proprietary data products. Further, approximately $63 million of the $327 million equity SIP revenue in 2018 was distributed to FINRA.[863]

The Commission's estimates above are mainly based on revenue information that the exchanges submitted as part of their Form 1 filings.[864] In addition, the Commission used SIP revenue information disclosed by the CTA/CQ Plans and the Nasdaq UTP Plan in their quarterly revenue disclosures.[865] Furthermore, because revenue information provided by some exchanges in their Form 1 filings is not sufficiently detailed for this calculation, the Commission had to make certain assumptions in order to derive these estimates. First, the Form 1 filings for NYSE and NYSE MKT combine revenue from connectivity fees with revenue from market data fees. For these exchanges, the Commission derived the revenue earned from connectivity fees by assuming that the revenue that these exchanges earn from proprietary data is slightly smaller than the revenue that they earn from SIP data (based on notes in their Form 1 filings which indicate that SIP revenue exceeds proprietary data revenue). Second, the Form 1 filing for Nasdaq combines revenue from connectivity fees with revenue from transaction fees. The Commission derived the revenue that Nasdaq earned from connectivity fees by assuming that Nasdaq's revenues from connectivity fees and transaction fees were in the same proportion to one another as NYSE's revenues from these two business lines. Third, Form 1 filings for exchanges that offer trading in both equities and options provide revenue information for these two asset classes combined. For these exchanges, the Commission assumed that their combined revenues from market data fees and connectivity fees in the equities market and in the options market were in the same proportion to one another as the market data and connectivity revenues that these exchanges would have earned in each of these markets based on their dollar volume market share (as compared to the dollar volume market share of the exchanges that trade only equities or only options).

3. Competition Baseline

This section discusses, as it relates to this rulemaking, the current state of the market for core and SIP data products, the market for proprietary data

[858] Some exchanges charge redistribution fees or their equivalents to market data aggregators and separately, one or more data fees (based on different use cases such as professional or non-professional, display or non-display) to market participants who purchase the exchanges' data from market data aggregators. *See* Virtu Letter I, at 16–79 (Exhibit ''A,'' lists of data and connectivity fees by several exchanges).

[859] *See, e.g.,* Roundtable Day One Transcript at 128–129 (Mark Skalabrin, Redline Trading Solutions).

[860] *See* Letter to Brent J. Fields, Secretary, Commission, from Brad Katsuyama, CEO, Investors Exchange LLC, at Table 7 (Jan. 29, 2019) (''Katsuyama Letter II'') (10Gb fiber connectivity).

[861] *See* NYSE price list 2020, *supra* note 408.

[862] *See* Nasdaq, Price List—Trading Connectivity, *available at https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2* (last accessed Dec. 19, 2019).

[863] When taking this $63 million into account, total SIP revenues shared by SROs were approximately $390 million in 2018, which is consistent with the $430 million estimate for 2017 noted in the Proposed Governance Order (which also included the amount paid to the plan processor). *See supra* note 845 and accompanying text. This estimate is also consistent with the $387 million estimate for 2017. *See* Jones Letter, *supra* note 291, at 25.

[864] *See* Commission, National Securities Exchange Periodic Amendments to Form 1 (Modified June 20, 2019), *available at https://www.sec.gov/rules/national-securities-exchanges-amendments.htm* (providing links to exchanges' Form 1 filings).

[865] *See supra* note 846.

products, the market for connectivity services, and the market for trading services as well as broker-dealers' competitive strategies for trading services.

(a) Current Structure of Market for Core and SIP Data Products

As discussed above,[866] under the NMS plans, SIP data is collected, consolidated, processed, and disseminated by the exclusive SIPs.[867] Equity Data Plan operating committees, which are composed of the SROs, set the fees the exclusive SIPs charge for SIP data.[868] Any revenue earned by the exclusive SIPs, after deducting their operating costs and FINRA's OTC oversight costs, is split among the SROs. FINRA rebates a portion of the exclusive SIP revenue it receives back to broker-dealer internalizers and ATSs based on the trade volume they report.[869]

The fact that Equity Data Plan operating committees approve all NMS plan proposed fee changes can create conflicts of interest for the SROs because their duties administering NMS plans that either charge or could charge fees could potentially come into conflict with other products the SROs sell or costs they incur as part of their businesses. For example, some of the SROs sell proprietary data products that are considered by some to be substitutes for SIP data. This can create a conflict of interest regarding the three NMS plans that set fees for SIP data because the SROs vote to set SIP fees, own and control the dissemination of data, and set the prices of some of the proprietary data products the exclusive SIPs may compete against.

As discussed in detail above, each Equity Data Plan selects a single exclusive SIP through a bidding process to be the exclusive distributor of the NMS plan's data.[870] This grants the SIP a monopoly franchise in the distribution of the NMS plan's data, which means that the SIPs may not be subject to competitive forces. The Commission acknowledges that there is uncertainty about this conclusion. In particular, the economic literature provides theory and evidence that could predict either more efficient or less efficient outcomes under a monopoly structure. A paper by Demsetz would predict that the current monopolistic structure is most efficient.[871] In industries where there are economies of scale, a monopoly structure may lead to the most efficient means of production. This profile applies to the distribution of core data because of the high fixed costs.[872] Demsetz (1968) argues that just because an industry has a monopolistic provider of a service does not mean that it is not subject to competitive forces. In particular, Demsetz (1968) argues that if the monopolistic provider of a service is subject to competition in the bidding process it could provide sufficient competitive incentives to achieve a competitive outcome. However, many theories provide examples of situations in which the monopolistic structure is less efficient than other structures.[873] The Commission does not believe that the exclusive SIP bidding process provides sufficient competitive incentives for three reasons. First, the bidding process could be subject to conflicts of interest since some of the SROs voting to select the exclusive SIP are also bidding to be the SIP. Second, the contracts are not bid out regularly, so there may not be a significant chance that the current exclusive SIP will be replaced. Third, historically in some cases the bidding process may not be competitive due to the number of bidders. Therefore, the Commission does not believe that the bidding process for exclusive SIPs is likely to produce the most efficient outcome and subject the exclusive SIPs to competitive forces.

The exclusive SIPs have significant market power in the market for core and aggregated market data products and are monopolistic providers of certain information, which means that for all such products they would have the market power to charge supracompetitive prices. Fees for core data are paid by a wide range of market participants, including investors, broker-dealers, data vendors, and others.

One reason the exclusive SIPs have significant market power is that, although some market data products are comparable to SIP data and could be used by some core data subscribers as substitutes for SIP data in certain situations, these products are not perfect substitutes and are not viable substitutes across all use cases. For example, as mentioned above, some market data aggregators buy direct depth of book feeds from the exchanges and aggregate them to produce products similar to SIP data.[874] However, these products do not provide market information that is critical to some subscribers and only available through the exclusive SIPs, such as LULD plan price bands and administrative messages.[875] Additionally, some SROs offer top of book data feeds, which may be considered by some to be viable substitutes for SIP data for certain applications.[876] However, broker-dealers typically rely on the SIP data to fulfill their obligations under Rule 603 of Regulation NMS, *i.e.,* the ''Vendor Display Rule,'' which requires a broker-dealer to show a consolidated display of market data in a context in which a trading or order routing decision can be implemented.[877]

The purchase of SIP data or proprietary market data from all exchanges, either directly or indirectly, is necessary for all market participants executing orders in NMS securities.[878] SROs have significant influence over the prices of most market data products. For example, the exchanges individually set the pricing of the top of book data feeds that they sell to market data aggregators and broker-dealers that self-aggregate who in turn generate consolidated data. At the same time, SROs collectively, as participants in the national market system plans, decide what fees to set for SIP data.[879] Although market data aggregators might compete with the exclusive SIPs by offering products that provide consolidated data, they ultimately derive their data from the exchanges' direct proprietary data feeds, whose prices are set by the exchanges, a subset of SROs.[880]

[866] *See supra* Section II.A.

[867] *Id.*

[868] *See supra* note 842 and accompanying text.

[869] *See supra* note 844.

[870] *See supra* Section IV.A.

[871] *See* Harold Demsetz, Why Regulate Utilities?, 11 J.L. & Econ. 55 (1968) (''Demsetz (1968)'').

[872] *See infra* note 882 and accompanying text.

[873] *See, e.g.,* Oliver E. Williamson, Franchise Bidding for Natural Monopolies—in General and with Respect to CATV, 7 The Bell J. Econ. 73 (1976) (discussing why bidding for monopolies may not work well); Robin A. Prager, Firm behavior in franchise monopoly markets, 21 Rand J. Econ. 211 (1990).

[874] The feeds produced by market data aggregators offer additional features, such as lower latency, but usually cost more than SIP data. *See* Roundtable Day One Transcript at 126–129 (Mark Skalabrin, Redline Trading Solutions).

[875] *See supra* Section III.D, III.E.

[876] In the equity markets, the top of book feeds offered by the SROs are usually cheaper than SIP data. However, they may only contain information from one exchange, or one exchange family. *See, e.g.,* Nasdaq Basic, *supra* note *19*; CBOE One, *supra* note *19*; NYSE BQT, *supra* note *19*; TD Ameritrade Letter, *supra* note *19* (stating that the lower cost of exchange TOB products, coupled with costs associated with the process to differentiate between retail professionals and non-professionals imposed by the SIP Plans, and associated audit risk, favors retail broker-dealer use of exchange TOB products).

[877] *See* Vendor Display Rule, Rule 603 of Regulation NMS; *supra* Section IV.B.2(a).

[878] For example, Rule 611(a) of Regulation NMS requires trading centers to establish policies and procedures to prevent trade-throughs. In order to prevent trade-throughs, executing broker-dealers need to be able to view the protected quotes on all exchanges. They can fulfill this requirement by using SIP data, proprietary data feeds offered by the SROs, or a combination of both.

[879] *See supra* note 842.

[880] Pursuant to Section 19(b) of the Exchange Act and Rule 19b–4 thereunder, SROs must file with the

Regarding the level of competition among non-SRO market data aggregators that sell consolidated data to market participants, the Commission currently does not have a precise estimate of the number of players in this market and does not know how specialized these players are.[881] The Commission invites comments on this issue.

Additionally, the production of both core data and proprietary data feeds involves relatively high fixed costs and low variable costs.[882] Fixed costs are composed of, among others, costs to set up infrastructure, regulatory approval costs, software development costs, administrative costs and overhead costs, while variable costs include costs to contract with and establish connectivity to each customer. Importantly, fixed costs of the production of both core data and proprietary data feeds are not specific to the production of data but also support the exchanges' other services such as intermediating trade. In such markets, the firms have additional incentives to increase the number of their customers in order to spread the fixed cost across a larger base of consumers.

(b) Current Structure of Market for Proprietary Market Data Products

In addition to SIP data, the exchanges voluntarily disseminate proprietary data and charge fees for this data. As noted above,[883] the proprietary DOB products are generally characterized as fast, low latency products designed for automated trading systems that include additional content, such as depth of book data, while proprietary TOB products are limited in content, such as the exchange's top of book quotation information and transaction information and are designed largely for the non-automated segment of the market (*e.g.,* non-professional investors and wealth managers that access market data visually). Proprietary DOB products typically include odd-lot quotations, orders at prices above and below the best prices (*i.e.,* depth of book data), and information about orders participating in auctions, including auction order imbalances.

Proprietary data fees have increased significantly over the past decade, as suggested by SIFMA estimates that show that, for some broker-dealers, data fees charged by some exchanges went up by three orders of magnitude or more between 2010 and 2018.[884] Correspondingly, exchanges' revenues from selling proprietary data and connectivity services also went up over the last several years. For example, Budish, et al. (2019) observe that exchanges earn significant revenues from selling proprietary data (as well as connectivity services).[885] According to NYSE's Form 1 filings, its revenues from data services (including connectivity revenues but excluding SIP data revenues) increased approximately 93% from 2014 to 2018. Similarly, Nasdaq's Form 1 filings show an approximately 21% increase in their revenues from data services (excluding revenues from connectivity services and SIP data revenues). On the other hand, during the same period, revenues distributed back to NYSE by the exclusive SIPs increased approximately 18% and the revenues distributed back to Nasdaq increased approximately 12%. The exchanges' differences in their reporting of these numbers make it difficult to compare revenue numbers across exchanges. However, for both of these exchanges, their revenues from the proprietary data and connectivity business have been growing faster than the revenues they collect from SIP data.[886]

Indicia that exchanges may not be subject to robust competition include that many broker-dealers state that even in the face of increasing proprietary data fees they feel compelled to buy proprietary data to be able to provide competitive trading strategies for their clients.[887] Additionally, some academic research suggests that each particular exchange's proprietary data has no substitutes for some uses of the data and no perfect substitutes for any uses. For example, Budish et al. (2019) conclude that each exchange has market power with respect to the data products (and the speed technology) specific to that particular exchange because of a lack of substitutes for many applications of their data.[888]

(c) Current Structure of Market for Connectivity Services

Exchanges are exclusive providers of their own connectivity services, and for many market participants, effective trading strategies require connecting to many if not all of the exchanges, making their demand for these connectivity services less elastic (*i.e.,* less sensitive to price changes). The Commission examined data on exchange orders that shows that large broker-dealers (as measured, for example, by the number of messages sent to exchanges) connect to all or almost all exchanges.[889] This is consistent with commenters' and Roundtable participants' stated view that in order to avoid a competitive disadvantage, market participants have little choice but to purchase direct connectivity services from multiple SROs.[890]

As mentioned above, the exchanges offer different connectivity options to transmit market data to market participants. These options may include fiber optics connections, wireless microwave connections, and laser transmission, all of which vary in speeds and reliability.[891] The fastest and more reliable connections (*e.g.,* laser transmission) offer market participants an advantage over other market participants with slower or less reliable connections. Therefore, the Commission preliminarily believes that the

Commission proposed rules, in which they set prices for their direct feed data. Those prices can vary depending on the type of end user.

[881] The Commission assumes that certain entities from the list of market data vendors published on Nasdaq's website currently perform the market data aggregator function. *See supra* note 516.

[882] *See, e.g.,* Paul M. Romer, Endogenous Technological Change, 98 J. Pol. Econ. S71–102 (1990) (pointing out that information is fundamentally distinct from other goods because it has a fixed cost of discovery and a near zero cost of replication).

[883] *See supra* Section II.A.

[884] *See* SIFMA Letter; Virtu Letter I, at 4 (discussing double ''dipping'' on fees by the exchanges).

[885] *See* Eric Budish et al., *supra* note 15.

[886] According to its 2014 Form 1 filing, NYSE collected approximately $138 million as market data revenues, covered under the ''data services fees'' income statement line item. According to the notes to NYSE's financial statements, these market data revenues include proprietary data revenues, SIP data revenues, and revenues from connectivity services. NYSE's same revenue line item increased to approximately $236 million by the end of 2018. Whereas during this same time period, the revenues NYSE collected from the exclusive SIPs went from approximately $40 million to approximately $47 million. Nasdaq's 2014 Form 1 filing discloses approximately $206 million in ''information services'' line item in its income statement. According to the footnotes to its financial statements, this line item includes Nasdaq's market data revenues and redistributed SIP revenues but does not include connectivity service revenues. In its 2018 Form 1 filing, Nasdaq disclosed $242 million in revenues under the same information services line item. During the same time period, Nasdaq's SIP data revenues went up from approximately $76 million to $85 million, a smaller revenue increase relative to its market data revenues.

[887] *See supra* note 598.

[888] *See* Eric Budish et al., *supra* note 15.

[889] Based on the sample of audit trail data made available to the Commission by FINRA, firms that are connected to all exchanges account for 76.6% of the message volume (there are 37 such firms out of a total of 327 firms in the sample). Firms that are connected to at least all but one of the exchanges account for 91.6% of the message volume (there are 50 such firms). The FINRA data sample covers the week of December 5, 2016, and includes messages sent to 11 exchanges (NYSE National and Chicago Stock Exchange are not part of this sample).

[890] *See supra* Section III.C.2(c); *supra* Section II.A.

[891] *See supra* Section II.A.

exchanges have incentives to offer multiple levels of connectivity so that the fastest connections have the least elastic demand and the exchanges could charger higher prices for these connections.

(d) Current Structure of the Market for Trading Services in NMS Stocks

The market for trading services is served by exchanges, ATSs, and liquidity providers. The market relies on competition to supply investors with execution services at efficient prices. These trading venues, which compete to match traders with counterparties, provide a framework for price negotiation and disseminate trading information. The market for trading services in NMS stocks currently consists of 16 national securities exchanges, as well as off-exchange trading venues including wholesalers [892] and 33 NMS stock alternative trading systems.[893]

Since the adoption of Regulation NMS in 2005, the market for trading services has become more fragmented. The number of exchanges increased from eight in 2005 to 16 exchanges operating today.[894] Additionally, the market shares of individual exchanges became less concentrated, with a shift in market shares from some of the bigger and older exchanges to the newer ones.[895] For instance, from 2005 to 2013, there was a decline in the market share of trading volume for exchange-listed stocks on NYSE.[896] At the same time, there was an increase in the market share of newer national securities exchanges such as NYSE Arca, Cboe BYX, and Cboe BZX.[897]

During the same time period, the proportion of NMS stocks trading off-exchange (which includes both internalization and ATS trading) increased; for example, as of August 2018, NMS stock ATSs alone comprised approximately 14 percent of consolidated volume, and other off-exchange volume totaled approximately 21 percent of consolidated volume.[898] Aside from trading venues, exchange market makers provide trading services in the securities market. These firms stand ready to buy and sell a security ''on a regular and continuous basis at a publicly quoted price.'' [899] Exchange market makers quote both buy and sell prices in a security held in inventory, for their own account, for the business purpose of generating a profit from trading with a spread between the sell and buy prices. Off-exchange market makers also stand ready to buy and sell out of their own inventory, but they do not quote buy and sell prices.[900]

All of these developments increased the competitiveness of the market for trading services in NMS stocks. However, the Commission recognizes that while the market is more competitive, the actual level of competition that any given trading venue faces may depend on multiple factors including the liquidity of a stock as well as the type of trading venue and market participant engaging in the trade.

(e) Broker-Dealers' Competitive Strategies for Trading Services

While many market participants use market data to make investment decisions, not all market participants are equally competitive in their use of real-time data. The Commission understands that while some investors (including retail investors) may use a broker-dealer to execute a trade on their behalf, others, such as the broker-dealers themselves and other latency sensitive traders, utilize sophisticated routing tools to strategically decide how to fill an order on an exchange, including when and where to submit the order, how to split a larger order (*i.e.,* into how many pieces, or ''child orders'' [901]), how large the child order sizes should be, and what order type(s) should be used, *e.g.,* whether to use a market order, limit order, or some other order type. The strategies employed by broker-dealers and other latency sensitive traders in this regard are designed to secure the best possible execution price(s) for an order. For example, the Commission understands that methodologies utilized in trading orders can impact the price of the stock being purchased or sold in a manner that can increase or decrease its execution cost.

The Commission understands that broker-dealers in particular compete with each other to provide the lowest possible execution costs for their clients (*i.e.,* high execution quality) as quickly as possible.

An example of routing tools as noted above is smart order routing (''SOR''). SORs employ the use of algorithms (*e.g.,* by broker-dealers on behalf of a client) designed to optimally send parts of an order (child orders) to various market centers (*e.g.,* exchange and ATSs) so as to optimally access market liquidity while minimizing execution costs. SORs help to determine how to quickly access (''take'') available market liquidity before other market participants, and help to determine how to strategically place limit orders to optimize queue priority across various limit order books among exchanges. The ability to optimize queue priority facilitates the ability for a broker to ''capture the quoted'' spread, *i.e.,* buy on the bid or sell on the offer, while also potentially benefitting from exchange rebates paid to liquidity providers.

The Commission understands that data beyond the NBBO with minimal latency are important inputs to strategies designed to optimize the ability to access market liquidity and minimize execution costs. Further, the Commission understands that competing with the most effective SORs is more difficult without possessing real-time market data while minimizing data latency.[902] The Commission understands that those traders who do not access trading tools that utilize comprehensive market data with low latency experience higher execution costs on average.

4. Request for Comments on Baseline

The Commission requests comments on its baseline analysis. In particular, the Commission solicits comment on the following:

161. Do you agree with the Commission's assessment of the market failures and the need for regulation to solve market data problems? Why or why not? Do additional market failures exist that are not described in this release? If so, what are they? Please explain in detail.

[892] Wholesalers are broker-dealers that pay retail brokers for sending their clients' orders to the wholesaler to be filled internally (as opposed to sending the trade orders to an exchange). Typically a wholesaler promises to provide price improvement relative to the NBBO for filled orders.

[893] As of February 7, 2020, 33 NMS stock ATSs are operating pursuant to an initial Form ATS–N. A list of NMS stock ATSs, including access to initial Form ATS–N filings that are effective, can be found at *https://www.sec.gov/divisions/marketreg/form-ats-n-filings.htm.*

[894] *See supra* note 660.

[895] *See* Letter to Brent J. Fields, Secretary, Commission, from Edward T. Tilly, Chairman and Chief Executive Officer, Cboe (May 25, 2018), at note 9.

[896] *See* Securities Exchange Act Release No. 76474 (Nov. 18, 2015), 80 FR 80998, 81112 (Dec. 28, 2015) (Regulation of NMS Stock Alternative Trading Systems Proposing Release).

[897] *Id.*

[898] *See* Securities Exchange Act Release No. 84875 (Dec. 19, 2018), 84 FR 5202, 5255 (Feb. 20, 2019) (Transaction Fee Pilot for NMS Stocks).

[899] *See* Commission, Fast Answers: Market Maker (modified Mar. 17, 2000), *available at http://www.sec.gov/answers/mktmaker.html.*

[900] *See* Laura Tuttle, OTC Trading: Description of Non-ATS OTC Trading in National Market System Stocks, Commission (Mar. 2014), *available at http://www.sec.gov/dera/staff-papers/white-papers/otc-trading-white-paper-03-2014.pdf.*

[901] Child order refers to a smaller order that was a piece of a larger ''parent'' order.

[902] The Commission preliminarily believes that there is also a significant personnel and technological cost to producing a sophisticated, competitive smart order router.

162. Do you agree that some market participants are unable to rely solely on SIP data to trade competitively in today's markets? Why or why not? Please explain in detail. If so, what businesses rely on the purchase of proprietary market data? The Commission is also seeking information on the number, type and sizes of market participants that purchase proprietary market data products either directly from exchanges for self-aggregation or through market data aggregators. The Commission requests that commenters provide such information where available.

163. Do you agree that exchanges are disincentivized from making improvements to the content or latency of SIP data? Why or why not? Please explain in detail.

164. Does the Economic Analysis contain all relevant baseline information? If not, what else should the baseline contain? Please explain in detail.

165. How competitive is the selection process for the exclusive SIPs? How does the selection process affect the performance of the SIP? How does past performance factor into the selection process? Please explain in detail.

166. The Commission is seeking information on the number of market participants that rely solely on SIP data for their trading needs, and, separately, on the number of market participants that do not rely solely on SIP data for their trading needs. The Commission requests that commenters provide such information where available.

167. The Commission is seeking information on the consequences (both positive and negative) of the limited amount of odd-lot quotation information currently included in SIP data. Please be specific about exact odd-lot quotation information that results in these consequences and provide data analysis where possible. Do the consequences vary across stocks and/or exchanges? Please explain and provide data analysis where possible.

168. The Commission is seeking information on the consequences (both positive and negative) of the lack of depth of book information currently included in SIP data. Please be specific about exact depth of book information that results in these consequences and provide data analysis where possible. Do the consequences vary across stocks and/or exchanges? Please explain and provide data analysis where possible.

169. The Commission is seeking information on the consequences (both positive and negative) of the lack of auction-related information currently included in SIP data. Please be specific about exact auction-related information that results in these consequences and provide data analysis where possible. Do the consequences vary across stocks and/or exchanges? Please explain and provide data analysis where possible.

170. The Commission requests comment on the scope and content of exchange proprietary data feeds. Are the proprietary data offerings similar across exchanges? Please explain in detail.

171. What are the consequences of the differences in latency between the SIP and proprietary feeds? Please explain in detail.

172. The Commission requests comment on the comparison of SIP versus proprietary data access experiences and costs. How do the types of fees and discount programs compare? Do the exclusive SIPs offer services that target the same clients as the exchanges do? Please explain in detail. Do exclusive SIPs offer services that target the same clients as third-party aggregators? Please explain in detail.

173. The Commission is seeking information on specific revenues and expenses associated with processing and disseminating market data by market data aggregators. The Commission requests that commenters provide such information where available.

174. The Commission is seeking information on pricing of market data aggregators' data and the breakdown of such product prices between the direct data fee charged by the exchanges and the fees charged by market data aggregators for their services. The Commission requests that commenters provide such information where available.

175. Do you agree with the Commission's competition baseline? Why or why not? Please explain in detail.

176. Do you agree that the exclusive SIPs have market power? Why or why not? Please explain in detail.

177. Do you agree with the Commission's assessment of the state of competition in the market for core and aggregated market data products in the equities market? Why or why not? Please explain in detail. What is the magnitude of this market? What are the total expenses incurred by broker-dealers on market data products? What are the total revenues earned by exchanges on market data products? Who else incurs costs or earns revenues on market data products?

178. The Commission requests that commenters provide information on the number of players in the market data aggregator space, and provide information on how specialized these companies are.

179. To what extent is it necessary for market participants executing orders in NMS securities to purchase market data from all SROs? Please explain in detail.

180. How does the market for proprietary data differ from the market for consolidated data? Please explain in detail.

181. Do you believe that exchanges have significant market power in the market for proprietary data products? Why or why not? Please explain in detail.

182. In what situations can top of book data products serve as substitutes for SIP data in the equities market? In what situations are top of book data products not viable substitutes for SIP data? Please explain in detail.

183. Do you agree with the Commission's assessment of the market for connectivity services? Why or why not? Please explain in detail. Do you believe that exchanges have significant market power with respect to connectivity services? Why or why not? Please explain in detail. What is the magnitude of this market? What are the total expenses incurred by broker-dealers on connectivity services? What are the total revenues earned by exchanges on connectivity services? Who else incurs costs or earns revenues on connectivity services?

184. Do you agree with the Commission's assessment of the market for trading services? Why or why not? Please explain in detail. How does market data and connectivity relate to the market for trading services? Can market power in one market translate into market power in another? Please explain in detail.

185. Characterizing competitors as producers (an entity that creates a good or service for trade) or intermediaries (an entity that facilitates the trading of goods or services produced by others) could have implications for the competitive landscape. To what extent are exchanges producers versus intermediaries in market data products and/or other services (*e.g.,* execution services, connectivity services)? Please explain in detail.

186. To what extent is market execution on one exchange a substitute for execution on another exchange? To what extent are they complements? Please explain in detail.

187. To what extent is market data from one exchange a substitute for market data from another exchange? To what extent are they complements? Please explain in detail.

C. Economic Effects of the Rule

1. Core Data and Consolidated Market Data

The Commission preliminarily believes that the proposed enhancements to consolidated data, namely expanding core data and the amendments to the definitions of ''national best bid and offer'' and ''protected bid or protected offer,'' would result in numerous economic effects. These economic effects derive from codifying the definition of core data, from expanding the content of the core data, and from changing the prices that determine the NBBO and the protected quotes.

The proposed change would have the benefit of mitigating the influence of existing conflicts of interest inherent in the existing exclusive SIP model.[903] The proposed change establishes a required amount of data to be included in proposed consolidated market data, and thus reduces the divergence between exchanges' proprietary DOB products and current SIP data.

(a) Definitions of Consolidated Market Data, Core Data, Administrative Data, and Regulatory Data

The Commission's proposed definitions of ''consolidated market data,'' ''core data,'' ''regulatory data,'' ''administrative data,'' and ''exchange-specific program data'' under Regulation NMS would specify the quotation and transaction information in NMS stocks that must be collected, consolidated, and disseminated under rules of the national market system and pursuant to an effective national market system plan(s). This definition would codify the dissemination of certain current SIP data elements, and would include some additional data elements, but would not include some data that the exclusive SIPs currently disseminate. This section discusses the secondary economic effects of this proposed expansion to core data that would come from codifying the inclusion of some current SIP data in ''core data,'' while the next section discusses the economic effects of expanding the content of core data. These secondary effects are providing flexibility to the Data Plans for including new data elements, requiring that regulatory data would continue to be provided in the decentralized consolidation model, cost to update the national market system plan(s), and costs to obtain data that is currently in SIP data but not in proposed consolidated market data elsewhere.

The proposed definitions of ''exchange-specific program data,'' ''regulatory data'' and ''administrative data,'' along with the proposed ability for the Equity Data Plans to add elements to these proposed definitions, promotes regulatory efficiency by providing flexibility for consolidated market data to include data elements beyond those explicitly defined as ''consolidated market data'' in the proposal. It provides a mechanism for the participants in the national market system plan(s) to propose to add additional data elements, such as elements similar to current retail liquidity programs. This would allow for organic change in consolidated market data that may become useful due to future market and regulatory developments.

Further, while the underlying data elements of ''regulatory data'' are currently included in disseminated SIP data, the proposed definition of ''regulatory data'' would help ensure that market participants continue to have access to this information.

The Commission recognizes that market data plans would incur one-time initial implementation costs in ensuring the plans are consistent with the proposed definitions of ''consolidated market data,'' ''core data,'' ''administrative data,'' ''regulatory data,'' and ''exchange-specific program data,'' but the plans would not incur significant ongoing costs as a result of the codification of these five definitions.[904] These initial implementation costs would come from the operating committees needing to draft revisions to their respective plans that are consistent with the proposed definitions.

The Commission preliminarily believes that not including some data elements that the exclusive SIPs currently transmit [905] in the definition of ''consolidated market data'' could have some costs to those market participants who would want to arrange to get this data elsewhere. As discussed above, the UTP SIP offers OTCBB quotation and transaction feeds for unlisted stocks, and the CTA Plan permits the dissemination of ''concurrent use'' data related to corporate bonds and indexes.[906] As proposed, these data elements would not be defined as consolidated market data or core data elements. However, the proposal would not preclude the provision of these data elements by the SROs via proprietary data products to market participants and investors who wish to receive them.

(b) Expanding Core Data Content

As discussed above,[907] the Commission proposes to define core data to include certain odd-lot quote information, certain depth of book data, and information on orders participating in auctions. This section discusses the economic effects of expanding the core data content separately for each additional core data element and then discusses the additional economic effects that may accrue to market participants from the combined new core data elements, although market participants may choose not to take in all of the new core data elements in every instance. The economic effects discussed in this section depend on the fees for core data charged by the effective national market system plan(s) for NMS stocks and the competing consolidators. The fees for new core data are discussed later.[908]

(i) Effects of New Round Lot Definition

The Commission proposes to define a round lot according to a tiered system based on the price of the stock.[909] This definition would result in the inclusion of quotes at better prices in core data that were previously excluded from being reported because they consisted of too few shares. These new quotes would now become visible to anyone who subscribes to core data, thereby improving transparency. The Commission preliminarily believes that the proposed changes to the round lot definition would create an economic benefit for market participants who currently rely exclusively on SIP data to obtain market information, and for market participants who post odd-lot quotes at prices superior to the NBBO. These market participants would benefit from being able to see more information on these smaller quotes at better prices before they send in their orders, which could improve their trading decisions and order execution quality by providing an opportunity to realize gains from trade,[910] as discussed below in this section.[911] The proposed change

[903] For a discussion of these conflicts of interest, *see supra* Section VI.A.2.

[904] Below in Section VI.C.1(b)(iv), the Commission discusses the costs of including data elements to the proposed definition of ''core data'' that are not currently in SIP data.

[905] *See supra* Section III.B.

[906] *See supra* Section III.C.

[907] *Id.*

[908] *See infra* Section VI.C.1(b)(iv).

[909] *See supra* Section III.C.1(d)(i).

[910] *See supra* note 754.

[911] The proposed round-lot definition may benefit retail investors even without changes to their decision to submit orders based on seeing the price-improving quotes. This is because the proposed round-lot definition would likely cause the NBBO to become narrower, and this would affect the execution quality provided by retail wholesalers to

could also improve price efficiency. This is because certain odd-lot information not currently disseminated as part of SIP data would be made available as part of proposed core data; therefore market participants who use SIP data who previously did not use the information contained in odd-lots would be able to incorporate this information into their trading decisions. These trading decisions are integral to how market prices are formed. Also, the proposed change could affect order routing and the share of order flow received by each exchange, since more traders will be aware of quotes at better prices that are currently in odd-lots sizes, and these may not be on the same exchange as the one that has the best 100 share quote.

The Commission preliminarily believes that changing the round lot definition to include smaller-size orders would be a significant benefit for market participants who would have traded with price-improving odd-lot quotes in certain stocks but do not do so because they cannot see information on odd-lot quotes.[912] Under the proposed rule, some of these quotes at better prices would be reported as the NBBO in the new core data. This would mean that these traders would be able to see the quotes,[913] and make a decision about whether to trade based on this newly visible, improved price. This may benefit traders because they would be able to realize the gains from trade that are available in this situation and are not currently occurring because of the lack of information. Also, some traders may wish to exchange an odd-lot quantity of a stock by posting a limit order for an odd-lot amount. Currently, this order's price is not visible to traders who rely solely on SIP data, and thus there may be delays in getting this limit order filled, since such traders would not send market orders in. Thus, adding smaller-size quotes in core data for certain stocks would result in a benefit to both the market participants who would submit the market orders and the market participants who post the odd-lot quotes they execute against.

The magnitude of this benefit depends on the amount of additional trading generated by the inclusion of odd-lot information. In particular, the Commission preliminarily believes that to the extent many market participants who rely solely on SIP data and lack information on odd-lot quotes would have traded frequently against odd-lot quotes had they known about them, the benefit would be large. However, if it is uncommon for market participants who would trade frequently against odd-lot quotes to rely solely on SIP data and to lack information on odd-lot quotes, then the Commission preliminarily believes that the associated economic benefit from including odd-lot quotes in core data would be small. The Commission preliminarily believes it is not possible to observe this willingness to trade but for lack of information with existing market data, and invites comments on this issue.

However, the Commission can quantify the frequency with which the hypothetical trader discussed above would see better prices under the new round lot definition in the current market environment. Based on this quantification, the Commission preliminarily believes that market participants relying on new core data would see a significant improvement in quoted spreads within a large percentage of the dollar volume of stock trading. Specifically, Table 4 shows the percentage of instances in a sample of MIDAS data that the NBBO provided at the time by an exclusive SIP[914] was inferior in price to the price of a round lot computed according to the new definition in the proposed rule. For instance, the table shows that for stocks with prices of $1,000 or greater, the new round lot definition would cause a quote to be displayed that improved on the current round lot quote 92.2% of the time. The frequency of this instance of price improvement appears to increase uniformly through the round lot tiers in the sample, starting lower at 9.7% for the $50.01–$100 tier. This analysis shows that, within each round lot tier in which the round lot size would change, there is a significant number of instances in which the new round lot definition would improve the quoted spread.

The quantity of instances of price improvement as a result of the new round lot definition depends on the volume of stocks in the tiers for which the round lot size would change. Table 1 above documents the number of stocks in each tier. It shows that while most stocks (80.9%) would remain unaffected by the new round lot definitions, most of the dollar trading volume, around 68.3%, currently is in stocks that would have a new round lot definition under the proposed rule. Based on this analysis, the Commission preliminarily believes that a meaningful amount of dollar volume is concentrated in stocks that would have significant changes to the quoted spread displayed under the new round lot definition.

The amount of price improvement available in the event that any price improvement is available, is also a relevant consideration when deciding whether to trade. Table 5 quantifies the average price improvement offered by the best quote under the new round lot definition, conditional on the event that price improvement is available in the first place. The table shows, for example, that the new round lot definition in the $50.01–$100 tier could yield an 8 basis point reduction in the spread (conditional on a price improving quote being available). Since the average quoted half spread is 31 basis points, this represents a significant reduction in the half spread. In the case of the $1000+ tier, the difference of 8.8 basis points represents an even more significant fraction of the 17 basis point average half spread. Based on this analysis, the Commission preliminarily believes that the size of price improvement, conditional on it being available, is also substantial.

retail investors. *See infra* Section VI.C.1(c)(i) for additional discussion on this point.

[912] Currently, some information about odd-lot quotes ends up in core data through certain exchanges rolling up odd lot quotes. But even in this case, the rolled up quote is reported to the exclusive SIPs at the worst price out of all the odd-lots that were rolled up to produce the quote, so the full amount of price improvement available on that exchange is still not visible to market participants relying solely on exclusive SIPs for market data.

[913] The traders able to see these quotes as a result of the proposed round-lot definition would include retail investors as a result of the Vendor Display Rule, among others. *See supra* Section III.C.1(d)(i).

[914] Since the source used for this SIP NBBO is an exclusive SIP itself, this quote includes quotes the exchanges produce by aggregating or ''rolling up'' odd-lots to obtain a round lot-sized quote.

TABLE 4—INSTANCES OF PRICE IMPROVEMENT

Round lot tier [1] [2]	Instances of price improvement (%) [3]		
	Best bid	Best ask	Best bid or best ask
1. <=$50	n/a	n/a	n/a
2. $50.01–$100	5.3	5.0	9.7
3. $100.01–$500	11.5	11.4	20.6
4. $500.01–$1000	46.8	50.1	72.8
5. 1000.01+	73.5	70.5	92.2

[1] Tier based on the stock's prior calendar month's average closing price on the primary listing exchange in August 2019.
[2] Seven stocks were excluded due to trading in round lots different than 100 shares (*i.e.,* 1 or 10 shares: Symbols BH, BH.A, BRK.A, DIT, MKL, NVR, and SEB).
[3] Overall frequency of price improving NBBO quotes during September 2019 using the proposed round lot tier criteria versus the current 100 share round lot criteria (*see* footnote 4 of Table 5 for more details). An instance of a price improving quote is calculated from a sample of MIDAS data, which consists of hourly snapshots from 10:30 a.m. to 3:30 p.m. for each trading day in September 2019. Calculation is based on the difference between the best bid/best ask calculated under the new round lot tier definition (source: direct feeds) compared to the NBBO based on the current 100 share round lot criteria (source: SIP).

TABLE 5—SIZE OF PRICE IMPROVEMENT

Round lot tier [1] [2]	Best bid: Average price improvement ($) [3]	Best ask: Average price improvement ($) [3]	Average difference in quoted half spread (%) [4]	SIP: Average quoted percent half spread (%)
1. <=$50	n/a	n/a	n/a	n/a
2. $50.01–$100	0.09	0.12	0.080	0.31
3. $100.01–$500	0.15	0.14	0.044	0.14
4. $500.01–$1000	0.79	0.89	0.080	0.22
5. 1000.01+	1.35	1.36	0.088	0.17

[1] Tier based on the stock's prior calendar month's average closing price on the primary listing exchange in August 2019.
[2] Seven stocks were excluded due to trading in round lots different than 100 shares (*i.e.* 1 or 10 shares: Symbols BH, BH.A, BRK.A, DIT, MKL, NVR, and SEB).
[3] Overall frequency of price improving NBBO quotes during September 2019 using the proposed round lot tier criteria versus the current 100 share round lot criteria. Conditional on a the instance of a price improving quote, stock-day average price improvement is calculated from a sample of MIDAS data, which consists of hourly snapshots from 10:30 am to 3:30 pm for each trading day in September 2019. Calculation is based on the difference between the best bid/best ask calculated under the new round lot tier definition (source: direct feeds) compared to the NBBO based on the current 100 share round lot criteria (source: SIP).
[4] Conditional on a the instance of a price improving quote (bid or ask), stock-day average difference in percent quoted half spread is calculated by SIP NBBO quoted percent half spread minus the new percent quoted half spread under the proposed round lot tier criteria. Quoted half spread is defined by: Quoted half-spread = QS_{it} = 100 * ($Ask_{it} - Bid_{it}$) / (2*M_{it}), where M is the midpoint between the best bid and best ask.

The Commission preliminarily believes that the new round-lot definition would benefit market participants who utilize strategies related to order routing, provided that they do not already obtain information on odd-lots from proprietary feeds. For instance, traders who wish to fill an order at the best possible price, including at sizes of less than 100 shares, would be better able to do so if the new round lot sizes are visible to them, *e.g.,* the exchange with the best 100 share quote may not be the exchange with the best 10 share quote.[915] The use of this information could improve order execution quality and facilitate best execution for these traders.[916] The Commission preliminarily believes that many of the market participants who utilize such strategies already have access to full odd-lot information via proprietary feeds; for these traders the proposal would not produce a direct benefit.[917]

Also, the Commission preliminarily believes that there may be market participants that would start running these order routing strategies if the data were available to them at prices comparable to SIP data. These market participants might currently find that the value of attempting such strategies without information on odd-lots is too low to justify running the strategies, but they might find that access to data on such orders through the new round-lot definition would enable them to run such strategies effectively. To the extent that such market participants exist, the change to the round-lot definition would be a benefit to them as well.[918]

The Commission preliminarily believes that the new round lot definition could improve price efficiency. The wider availability of information about smaller-sized quotes could mean that more market participants (who currently rely solely on SIP data) would incorporate the information contained in those quotes into their trading decisions. This could have the effect of improving the

[915] Battalio, Corwin, and Jennings (2016) examines the frequency of trading at inferior prices as compared to available unprotected odd-lot quotes in a sample of 10 high-priced stocks during one week in 2015. They find that there was an unprotected odd-lot limit order available at a better price for 2.52% of the trades that occurred. *See* Robert Battalio et al, Unrecognized Odd Lot Liquidity Supply: A Hidden Trading Cost for High Priced Stocks, 12 J. Trading 35 (2016).

[916] For discussion of order execution quality and the provision of execution services by broker-dealers, *see supra* Section VI.B.3(e).

[917] The new round-lot definition may benefit those market participants who already obtain odd-lot information by providing them with alternatives to proprietary feeds. For discussion of this effect, *see infra* Section VI.C.4(a). Also, the Commission preliminarily understands that some market participants who use proprietary feeds as their main source of market data also use the SIP feeds as a backup. For such market participants, the change in the round lot definition may improve the value of a core data feed as a backup.

[918] For further discussion of new entrants to the competitive order routing business, *see infra* Section VI.C.4(b).

efficiency with which this information becomes reflected in prices.[919]

The Commission preliminarily believes that the new round lot definition could cause changes to order flow as market participants change their trading strategies to take advantage of newly visible quotes.[920] This could mean that there would be changes to the share of order flow each exchange receives as a result of this rule. The Commission is uncertain about the magnitude and direction of this effect, and invites comments on the issue.

The Commission preliminarily believes that the use of the previous calendar month's average closing price on the primary listing exchange to determine the round lot tier for a given stock balances certain tradeoffs that should be considered when selecting such a benchmark. The Commission is balancing a more up-to-date stock price estimate against the costs imposed on market participants from having to frequently make updates to systems and practices to account for changes to a stock's round lot tier. A more recent average (*e.g.,* the past week's average closing price) may better reflect the stock's current price level, and thereby lead to the stock being placed in the correct tier more frequently. However, such a recent estimate may be more volatile and thus more prone to causing frequent changes to the stock's status, especially if the stock's price level is close to a round lot tier cutoff point, which could then require more frequent adjustments from market participants, including SROs and competing consolidators, to account for what a stock's round-lot tier is and what the NBBO for that stock would be given its tier.

(ii) Effects of Addition of Depth of Book Information

The Commission proposes to add certain depth of book information to the definition of core data, which would result in this information becoming available to anyone who subscribes to this element of core data. The Commission preliminarily believes that this information could be useful in trading, and therefore disseminating this information as an element of core data could have the effect of causing changes to the trading strategies of those market participants who currently rely solely on SIP data. This could potentially lead to these traders being able to reduce their execution costs and facilitate best execution, changes in order flow to different exchanges, improvements in price efficiency of markets, and gains from trade that are not currently being realized.

The Commission preliminarily believes that adding the depth of book information as an element of core data would benefit traders who previously relied exclusively on SIP data and who, as a result of the proposed rule, would receive information they previously did not get. Academic research has found evidence that valuable trading information can be obtained from the full depth of a limit order book.[921] As noted above, market participants also believe that depth of book information is valuable.[922] Currently, only traders who subscribe to exchanges' proprietary data feeds can receive this information. As a result of the proposed amendments, additional depth of book information would become available to anyone who subscribes to these elements of core data. The Commission preliminarily believes that market participants that currently rely solely on SIP data could use the additional depth of book information to improve trading strategies and to lower execution costs. To the extent that the advantage of having this information depends on other traders not having it, this economic effect would represent a transfer from the current users of depth of book information to those market participants who would now get access to, and would be able to utilize, this information. In particular, a more widespread dissemination of depth of book information may cause market prices to adjust to this information more rapidly as more people react to this information. Once market prices settle to a level that reflects this information, the opportunity to profit from having additional depth of book information may be lost.

The Commission preliminarily believes that market participants who utilize strategies related to order routing, order placement, and order execution, could benefit from the new depth of book information, provided that currently they do not already obtain this information via proprietary data feeds. For instance, traders may seek to get priority in the queue at a particular price level behind the top of book by posting a limit order. Such a strategy could benefit from being able to see the depth at these price levels at multiple exchanges in order to evaluate which exchange's queue would provide the order with the highest execution priority. To the extent this is the case, the Commission believes that the traders who previously did not have access to additional depth of book information would benefit by being able to better run such strategies. This could improve order execution quality for these traders.[923] The Commission preliminarily believes that many of the market participants who utilize such strategies already have access to full depth of book information via subscriptions to proprietary feeds; for these traders the rule would not produce a direct benefit.[924] The Commission is unable to quantify the number of market participants who currently run these types of strategies without using depth of book information because the Commission does not have access to information on specific strategies utilized by individual traders in the market.[925]

Also, the Commission preliminarily believes that there may be market participants that would start running these order routing strategies if the data were available to them at core data

[919] For additional discussion of the price efficiency point, *see infra* Section VI.D.1.

[920] For example, currently a market participant, relying on SIP data, may submit an order to the exchange with the exclusive SIP NBBO and in the process trade at an inferior price to an odd-lot quote that the market participant was not aware of on another exchange. If the market participant would have preferred to route to the price-improving odd-lot quote, and if that quote would count as a round-lot under the proposal, then under the proposal the market participant would send the order to the exchange with the smaller, price improving quote.

[921] *See* Lawrence E. Harris and Venkatesh Panchapagesan, The Information Content of the Limit Order Book: Evidence from NYSE Specialist Trading Decisions, 8 J. Fin. Mkts. 25 (2005); Jonathan Brogaard et al., Price Discovery without Trading: Evidence from Limit Orders, 74 J. Fin. 1621–1658 (2019); Shmuel Baruch, Who Benefits from an Open Limit-Order Book?, 78 J. Bus 1267 (2005), *available at https://www.jstor.org/stable/10.1086/430860* (presenting some theoretical results showing that liquidity takers benefit more from an open limit order book).

[922] *See supra* Section III.C.2(c) (describing how market participants have stated that they believe they need depth of book information in order to run their businesses).

[923] For discussion of order execution quality and the provision of execution services by broker-dealers, *see supra* Section VI.B.3(e).

[924] The inclusion of depth of book information may benefit those market participants who already use depth of book information by providing alternatives to proprietary feeds. For discussion of this effect, *see infra* Section VI.C.1(b)(iv). Also, the Commission preliminarily understands that some market participants who use proprietary feeds as their main source of market data also use the exclusive SIP feeds as a backup. For such market participants, the expansion of DOB information may improve the value of a core data feed as a backup.

[925] The Commission preliminarily believes that it is possible that the inclusion of this information in the proposed definition of core data, along with reductions in the latency differential that would result from the decentralized consolidation model, could benefit market participants who do not currently run these strategies but who would choose to start running them as a result of the proposed changes. For more discussion on this possibility, *see infra* Section VI.C.4(b).

prices. These market participants might currently find that the value of attempting such strategies without DOB data is too low to justify them, but that access to additional DOB data through these elements of new core data would enable them to run such strategies effectively. To the extent that such market participants exist, the additional DOB data would be a benefit to them as well.

The revision in trading strategies discussed above could result in changes to the decisions traders make about where to route their orders among the various exchanges. Market participants may find that depth of book information suggests trading opportunities on exchanges to which they would not have otherwise routed their orders. The Commission is uncertain about the magnitude of this effect or which exchanges may gain or lose order flow as a result. The Commission cannot determine how many market participants may choose to change routing strategies as a result of the new depth of book information, nor to what extent the new depth of book information would cause market participants to change where they route their orders. The Commission invites comments on this issue.

Also, the Commission preliminarily believes that the more widespread dissemination of depth of book information could result in more efficient pricing.[926] The Commission preliminarily believes that as more traders take advantage of information contained in the depth of book data, prices would reflect this information more quickly. Therefore, more widespread dissemination of depth of book information has the potential to lead to pricing that better reflects available information. If many current users of SIP data are capable of utilizing the information in the new core depth of book data, this effect may be large, but if only a few choose to make use of the new data or are capable of utilizing it, then this effect would be small. The size of this effect depends on the willingness and ability of current market participants who currently rely solely on SIP data to make use of the information in the new depth of book data, which is unobservable.

The Commission preliminarily believes that there may be gains from trade that would be realized as a result of adding this depth of book information as an element of core data. The possibility for this benefit to materialize relies on the extent to which there exist traders who would be willing to send orders that ''walk the book'' [927] but currently do not do so because they do not see what is beyond the top of the book. This situation represents an economic inefficiency because there are potential gains from trade that are not realized because of a lack of information. This would presumably be a benefit to both the trader walking the book and the traders who posted orders behind the BBO that would be filled as a result of the trade.

Relatively few orders actually execute at prices outside the NBBO,[928] which implies that trading against quotes away from the NBBO on a single exchange, using a single marketable order, does not occur frequently. In addition, an analysis of a sample of trading in ten stocks on the Nasdaq exchange found that an average of 0.65% of market orders walked through the best displayed price level for these ten stocks.[929] Therefore, the Commission preliminarily believes that there may be limited benefits from additional DOB information in the particular hypothetical case of traders who currently rely solely on SIP data for market information and who would submit market orders to trade against limit orders beyond the top of the book on a single exchange if the depth of book information were available. However, the size of the benefit depends on the willingness of traders to walk the book after receiving the new DOB information, as well as their trading interest, and this is unobservable in the current market.

(iii) Effects of Addition of Auction Information

The Commission proposes to add ''auction information'' as an element of core data. This proposal would result in all auction information currently disseminated by exchanges via proprietary data feeds being made available to subscribers of these elements of core data feeds. The Commission preliminarily believes that the addition of auction information as an element of core data would make this information more readily available to anyone who subscribes to these elements of core data and would have effects that include changes to market participants' trading strategies, gains from trade as a result of new participation in auctions, potential improvements to price discovery in auctions, changes to order routing decisions, and a significant reduction in the value of dedicated proprietary auction feeds.

As discussed above, some auction information is currently available to market participants through specialized feeds for a lower price than full DOB feeds,[930] and also a limited set of auction information is available through the current SIP feeds.[931] This enables access to a limited set of auction information for some market participants, at lower prices than full DOB feeds. To the extent that any market participants find these auction feeds sufficient for their trading needs, the Commission preliminarily believes that the addition of all auction information as an element of core data will have a limited effect on these market participants. To the extent that these market participants make up a large share of the market participants who would be interested in using additional auction information, the Commission preliminarily believes that the effect of adding auction information may be limited.[932] The Commission preliminarily believes that the extent of this limitation is reduced by the fact that not all auction information is available to market participants through such feeds. The Commission does not have data on the number of market participants with proprietary feed subscriptions.

The Commission preliminarily believes that auction information contains insights useful to traders in devising and executing trading strategies.[933] Therefore, the Commission preliminarily believes that adding this information as an element of core data would produce a benefit for those traders who currently do not access such information. To the extent that these traders can exploit this auction information, the addition of this information as an element of core data should enable them to produce better trading strategies and lower execution costs, as well as facilitate best execution. To the extent that the advantages of possessing auction information come from exploiting the

[926] For further discussion of this point, *see infra* Section VI.D.1.

[927] *See supra* note 814.

[928] *See supra* note 814.

[929] *See* Nikolaus Hautsch and Ruihong Huang, Limit Order Flow, Market Impact and Optimal Order Sizes: Evidence from NASDAQ TotalView-ITCH Data, at 10, Table 3 (Aug. 22, 2011), *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1914293.*

[930] *See supra* Section VI.B.2(a).

[931] *See supra* Section VI.B.2(a).

[932] Since the cost to integrate multiple auction feeds into a single feed is a fixed cost in producing a market data feed, the Commission preliminarily believes that there would still be a benefit from the rule in the form of competing consolidator integrated auction feeds, which could be cheaper for market participants than integrating the feeds themselves.

[933] *See supra* notes 344–346.

trading decisions of market participants who lack this information, this effect would represent a transfer from those traders who currently have auction information to those traders who would obtain access to it through this rule and are able to exploit it to improve their trading strategies. The Commission preliminarily believes that this auction information could potentially be used across all trading venues, including exchange auctions, continuous exchange trading, and off-exchange venues.

The Commission preliminarily believes that there may be potential gains from trade that would be realized through the addition of auction information as an element of core data. The Commission believes that there may be market participants who would trade in auctions but currently do not trade in auctions because they do not access auction data. To the extent such traders exist, the addition of auction information as an element of core data would give them that data. This trade could benefit both sides of the trade, thus resulting in an economic benefit.

To the extent that market participants who start trading in auctions as a result of gaining access to auction information possess insights beyond what can be inferred from auction information, increasing the number of participants in auctions as described above should improve price discovery in the auction process. The Commission preliminarily believes that those who do not participate in auctions because they do not access auction information are unlikely to possess insights beyond what can be inferred from auction information. This is because any market participant who has such insights would find it worthwhile to purchase auction information and participate in the auction so as to exploit the value of the insights. Therefore, this benefit could be small. The size of this effect depends on the relative number of traders who possess such insights to those who do not who start participating in auctions as a result of this rule and the size of their auction traders in that event, both of which are unobservable in the current market.

The Commission preliminarily believes that the addition of auction information as an element of core data may affect the order routing decisions of market participants who currently do not have access to auction information. For example, some off-exchange trading venues cross market-on-close orders before the closing auction takes place and later settle the trades at the closing auction price. Having access to auction imbalance information may affect market participants' decision to route a closing order to either an off-exchange venue or to the closing auction on the primary listing exchange. For example, a market participant who gets access to auction information through a subscription to these elements of new core data might decide not to route the order to an off-exchange venue so as to be able to participate in the auction using the new information available. This auction information could also affect decisions made during the time when auction information is disseminated about whether to send orders to continuous trading venues instead of auctions or off-exchange venues. However, the Commission preliminarily believes that the overall effect of auction information on order routing decisions is uncertain and likely would vary based on market conditions.

The Commission preliminarily believes that the value of dedicated auction feeds would be substantially reduced as a result of the proposed addition of auction information to core data, and that this would result in a loss of revenue for those exchanges who offer such feeds. Since the full set of all auction information currently available in the market would be included in the definition of core data proposed by this rule, the Commission preliminarily believes that the value of any existing data product that provides only auction data [934] that is not currently in the exclusive SIP feeds would be substantially reduced. The Commission expects that many market participants who are executing a trade, either for themselves or for a client, have, and would continue to have, a subscription to core data. Therefore, when this subscription includes all available auction information, the value of dedicated proprietary auction data feeds could be substantially reduced.

(iv) General Costs To Expanding Consolidated Data

The Commission preliminarily believes that there are three potential costs to adding the new core data elements proposed in this rule, which are common across all these elements. The first potential cost is the cost to the new competing consolidators that would be necessary to implement or upgrade existing infrastructure and software in order to handle the dissemination of the additional core data message traffic. The second cost is the technological investments market participants might have to make in order to receive the new core data message traffic. The third cost is the cost to users of certain kinds of trading strategies that may currently be relying on the fact that this data is not widely distributed today.

The Commission preliminarily believes that the cost for firms that wish to become competing consolidators to implement or upgrade infrastructure to handle the dissemination of new round lot quotes, depth of book information, and auction information would be limited. As discussed in more detail below,[935] the Commission preliminarily believes that the new competing consolidators will likely be firms that already have the technological infrastructure necessary to process full depth of book data and to generate the NBBO using this data. Therefore, for these firms, requiring the competing consolidators to be able to process the new message traffic resulting from the additional core data may add only a minimal cost to becoming a competing consolidator. However, for a firm that does not currently subscribe to, or process data from, exchange proprietary feeds, the new core data message volume would increase the cost of becoming a competing consolidator beyond what it would have cost if the rule did not propose to expand core data. In particular, if the existing exclusive SIPs should decide to enter the competing consolidator business, they may incur such costs as they do not currently disseminate full depth of book data.[936]

The Commission preliminarily believes that there would be limited infrastructure investment required on the part of SROs to provide the information necessary to process and disseminate new core data. This is because the SROs currently provide all elements of new core data over their proprietary feed infrastructure.[937] In addition, the Commission preliminarily believes that many competing consolidators would be firms that already subscribe to these feeds,[938] and

[934] *See supra* note 335.

[935] *See infra* Section VI.C.2(a) for a discussion of the technological capabilities of firms the Commission preliminarily believes are most likely to become competing consolidators. It is possible that the addition of this proposed definition of core data would make consolidation more difficult for core data than it is currently, and that this added difficulty would result in additional latency. However, the Commission preliminarily believes that the risk of this is minimal, again because of the technological capabilities of competing consolidators and the market forces that will be in effect in the decentralized consolidation model.

[936] These costs are included in the discussion of costs for current exclusive SIPs to provide competing consolidator services. *See infra* Section VI.C.2(d).

[937] *See supra* Section VI.B.2(a).

[938] *See infra* Section VI.C.2(a).

thus, the SROs would likely not have a large amount of new data connections to service and therefore would not need to invest in infrastructure to handle them. However, exchanges, particularly primary markets, may incur some infrastructure costs related to the dissemination of new regulatory data.[939] Currently, the new regulatory data component to the proposed consolidated market data is distributed through the SIPs. In order for this information to be distributed through the new decentralized consolidation model, the rule requires the exchanges to provide a feed to competing consolidators and self-aggregators that contains the regulatory data. The Commission preliminarily believes that the infrastructure and operational processes provide such a feed is currently not completely in place and would require investment on the part of exchanges.[940]

The Commission preliminarily believes that the costs for infrastructure investment on the part of market participants [941] that choose to receive the new DOB and auction information components of core data would have only a limited impact.[942] Adding these components to core data could substantially increase the total message traffic in core data,[943] and this increase in message traffic may be accompanied by costs to market participants to set up the infrastructure required to handle this new level of traffic. However, the proposed amendments would not require market participants to receive (or display) the complete set of proposed consolidated market data, and competing consolidators would not be required to deliver all proposed consolidated market data for each data product they offer.[944] Therefore, those market participants who do not want to incur the costs associated with the expanded core data message traffic due to additional depth of book information or auction information would be able to choose not to receive any such additional information. Presumably, a market participant would therefore only seek to obtain the full set of consolidated market data if it believed that the benefits of receiving the data justified the costs. Thus, the Commission preliminarily believes that no market participant who does not consider this cost of the infrastructure investments necessary to receive the new core data worthwhile would have to incur it. For those market participants who do wish to incur the cost, the Commission is unable to estimate the associated costs because it does not have access to information about the infrastructure expenses a market participant incurs to process market data and because of the likelihood that such costs depend on each market participant's existing infrastructure.

The Commission preliminarily believes that adding the depth of book and auction information to core data could impose a cost on traders who rely on strategies that take advantage of the fact that the information in depth of book and auction data is not widely distributed (*i.e.,* those traders who are beneficiaries of existing informational asymmetries). To the extent that some of the value of depth of book and auction information lies in the fact that they currently are not observed by a number of market participants, the Commission preliminarily believes that the dissemination of this data would adversely impact the profitability of such trading strategies. For traders using trading strategies based on depth of book information, the magnitude of the cost caused by the proposed amendments would depend on the extent to which the five aggregated levels of depth proposed in this rule approximate the information contained in the full depth of book information. To the extent that these strategies exploit the lack of information on the part of exclusive SIP-reliant traders, this cost would represent a partial transfer to traders who currently rely solely on SIP data. The Commission is unable to estimate the size of this effect, since it does not have a method for detecting the use of such trading strategies from market data or determining what the profit on such strategies would be if they could be detected. The Commission invites comments on the issue.

Regarding the proposed amendment to change the round lot definition, the Commission preliminarily believes that the proposed amendment may negatively affect certain trading strategies, but the associated costs are likely to be small. First, the Commission preliminarily believes that there may be traders who currently attempt not to display their orders to wide public view by posting them in odd-lot sizes, in pursuit of trading strategies that take advantage of a market's limited knowledge of odd-lot size quotes. The Commission understands that certain traders (ones who are the most likely to recognize any advantage being sought in this manner) obtain proprietary feeds and so currently can see these odd-lot quotes. This means that this strategy cannot be used to hide quotes from users of proprietary feeds. To the extent that it is necessary to hide the quotes from such users in order for the strategy to work, the benefits of such a trading strategy are likely to be minimal. If this is the case, then to the extent that the new round lot definition makes this strategy more difficult, the Commission preliminarily believes that the cost to these traders of losing such an opportunity would also be minimal. On the other hand, if there is some benefit to posting quotes in odd-lot sizes to hide them from view (or at least from the view of exclusive SIP users) despite the fact that users of proprietary feeds can still see the quotes, the Commission preliminarily believes that to the extent that the new round lot definition makes this strategy more difficult, there could be a cost to the traders who use such a strategy. The Commission cannot observe whether an odd-lot quote is being used to hide the order or not but invites comments on the issue.

Second, there may be costs to those traders who currently enjoy the position of being among the traders who can see odd-lot quotes via proprietary data feeds. The Commission preliminarily believes that odd-lot quotes are more easily taken advantage of by those traders who can see the quotes. Currently, this advantage is available only to those traders who purchase proprietary data feeds. The Commission preliminarily believes that this gives these traders an advantage over other traders by improving their order execution costs. Under the proposed changes to core data, this advantage is likely to be reduced. If this were to happen, it would be because other traders would obtain the advantage as well and may take advantage of these quotes before the current direct feed subscribers do. To the extent that this happens, this cost to current direct feed subscribers from losing this advantage represents a transfer to the traders who can see the liquidity currently in odd-lots. The Commission is uncertain about

[939] As discussed above, this new regulatory data would consist of all the same messages as current regulatory data distributed through the exclusive SIPs. *See supra* Section III.D.

[940] The costs to SROs to produce a feed for such regulatory data is included in the numbers for the general costs to SROs for providing the data necessary to generate consolidated market data in Section V.D.6.

[941] These market participants would include any entity that subscribes to the new consolidated market data.

[942] *See also supra* Section VI.C.1(b)(i).

[943] The Commission preliminarily believes that the addition of DOB information, in particular, may substantially increase message traffic. *See supra* note 294.

[944] A market participant that has obligations under Rule 603(c) would have to receive all data necessary to generate consolidated market data to comply with the rule. The specific cost associated with some of this data is discussed below. *See infra* Section VI.C.1(c)(i).

the size of the loss in advantageous trading opportunities to traders who subscribe to the proprietary data. To quantify this requires knowing (among other things) when an odd-lot quote is traded with by a participant who had access to full odd-lot information and when it was traded with by a participant who did not know the quote was there, and this is not observable from available market data. However, the Commission invites comments on the issue.

(v) Request for Comments

The Commission requests comments on its analysis of the economic effects the proposed amendments regarding core data and consolidated market data. In particular, the Commission solicits comment on the following:

188. Do you agree with the Commission's analysis of the economic effects of creating definitions for ''consolidated market data,'' ''core data,'' ''administrative data,'' and ''regulatory data''? Why or why not? Please explain in detail.

189. Do you agree with the Commission's analysis of the economic effects of expanding the content of core data? Why or why not? Please explain in detail.

190. To what extent would the expansion of core data reduce the value of current market data products? What would be the economic effect of any reduction? Who would benefit and who would incur costs of any value reduction? Would the reduced value result in a net welfare gain or loss? Please explain in detail and quantify if possible.

191. To what extent would market participants who wish to receive information currently contained in the exclusive SIP feeds that will not be included in the proposed definition of consolidated market data be able to obtain this information from other sources? What would be the likely price of such sources?

192. The Commission requests comments on the potential uses of expanded core data content. How would market participants use the expanded core data? Which market participants would be likely to use the additional depth of book data? To what extent would the users or uses differ from current users and uses? What would be the potential economic effects of the expanded core data? Please be specific.

193. The Commission requests comment on the capacity requirements needed by exchanges, competing consolidators, and users resulting from expanded core data. Would any of these participant types need to upgrade systems to be able to handle the expanded data? If so, what would be the aggregate one-time and ongoing expenses of these upgrades? Would such expenses vary by type of entity or other factors? If so, what factors might affect these expenses and what would a reasonable range of expenses be for exchanges, competing consolidators, and users? Would the expansion of core data increase any data latencies relative to today? If so, what would be the economic effect of the increased latency? Please be specific.

194. The Commission requests that commenters provide any insights they may have as to the effect of the addition of depth of book information, smaller quotes (from the definition of round lot), and the inclusion of auction information on the share of order flow received by various exchanges, ATSs, and other trading systems. If you expect the inclusion of such information to alter order routing decisions, please explain the factors that could determine the winners and losers and whether such changes would result in net welfare gains or losses. Please provide estimates of these potential effects.

195. The Commission requests that commenters provide any insights they may have as to the effect of adding the depth of book, smaller quotes, and auction information to the core data on traders who currently benefit from information asymmetries. Would any losses to these traders be offset by gains to others? If so, would there be net welfare gains or losses? Please explain in detail and also submit any insights you may have as to the size this effect.

196. The Commission requests that commenters provide any insights they may have as to the effect of the proposed round lot definition on the informational advantage currently possessed by those traders who obtain odd-lot quotes via proprietary feeds. Would any transfers between those who currently have access to this data and those who do not result in any welfare gains or losses? What effect would the proposed round lot definition have on trading strategies that exploit the hidden nature of odd-lots? Please explain in detail.

197. Do you agree with the Commission's assessment that the traders currently reliant on SIP data, who will be able to see price-improving odd-lot quotes in certain stocks, could create additional trades that do not currently take place? Why or why not? Please explain in detail.

198. The Commission requests that commenters provide any insights they may have as to the effect of including depth of book information in core data on trading strategies that exploit the information in current depth of book data products.

199. The Commission requests that commenters provide any insights they may have as to the effect of including depth of book information in core data on the informational advantage currently possessed by those traders who obtain depth of book via proprietary feeds. Would any transfers between those who currently have access to this data and those who do not result in any welfare gains or losses? Please explain in detail.

200. The Commission requests that commenters provide any insights they may have as to the use of depth of book information in running strategies that attempt to establish priority in the queue at a particular price level behind the top of book. Are such strategies ever run without access to depth of book information? How common are such strategies in the market?

201. Would the inclusion of depth of book information in core data strain current throughput, processing, or storage capacities? If so, by how much? How costly would it be and who would incur the costs of upgrading capacity to handle depth of book information in core data?

202. Do you agree that the inclusion of odd-lot or depth of book information in core data would result in more efficient pricing? Why or why not? Please explain in detail.

203. To what extent would any benefits of including depth of book information in core data depend on the degree to which orders ''walk the book''? Which benefits, if any, depend on this? Please explain how.

204. To what extent would adding all auction information to core data result in such information being more widely disseminated, and what role do existing dedicated auction feeds play in this? If so, how would market participants use this more widely disseminated data and what would be the economic effect of this usage? Please explain in detail.

205. Would disseminating auction information in core data increase participation in auctions? Why or why not? What would be the economic effect of any change in auction participation? Would this change in auction participation improve price discovery? Please explain.

206. What are the initial and ongoing technology costs that competing consolidators would incur to collect, compile, process, and disseminate the expanded core data? How would these costs vary across potential competing consolidators—current exclusive SIPs, current market data aggregators and self-aggregators, and new entrants? Would

these costs constitute a significant barrier to entry to becoming a competing consolidator? Why or why not? Please explain and provide quantified costs.

207. What are the initial and ongoing technology costs that exchanges would incur to disseminate the expanded core data to competing consolidators? Please quantify these costs. Do commenters agree that these costs would be minimal to the extent that exchanges are already disseminating such information in proprietary data feeds? Why or why not? Please explain.

208. What would be the initial and ongoing technology expenses incurred by market participants to receive and process the expanded core data for their intended uses? Please quantify these expenses. Do you agree that such technology expenses would be minimal for those market participants that currently receive and process such information from proprietary data feeds? Why or why not? Do you agree that such technology expenses would be mitigated by the fact that only those market participants that would significantly benefit from receiving and using such data would choose to receive it? Why or why not? Please explain in detail.

209. Do you agree with the Commission's range of the potential increase in message traffic associated with the expansion of market data? Please explain and provide alternate estimates as necessary. How would the costs incurred by exchanges, competing consolidators, and data users depend on the increase in message traffic? Would the relation between message traffic and costs for each of these entities be linear, concave, or something else?

(c) Amendments to the NBBO and Protected Quotes and Other Conforming Changes

The proposal to change the round lot size for stocks with prices greater than $50 would mechanically change NBBO spreads for these stocks, as explained below. Specifically, almost all stocks with prices above $50 would experience narrower NBBO spreads. In addition to the direct effect of narrower quoted spreads, the Commission recognizes that these mechanical changes to the NBBO may affect other Commission or SRO rules and regulations. For some of these rules and regulations, the Commission is proposing conforming changes, which themselves can have economic effects. For other rules and regulations, the Commission analyzes below the follow-on economic effects of the mechanical changes to the NBBO.

(i) Changes in the National Best Bid and Offer and Protected Quotes

As discussed in detail above,[945] the proposed amendments would reduce the number of shares included in the definition of a round lot for NMS stocks for which the prior calendar month's average closing price on the primary listing exchange was greater than $50.00.[946] Higher priced stocks would be grouped into tiers based on their price and stocks in higher price tiers would have fewer shares in their definition of a round lot. In addition, the proposed amendments would, as part of the proposed definition of core data, require that the best bid and offer and national best bid and offer include odd-lots that, when aggregated, are equal to or greater than a round lot and that such aggregation shall occur across multiple prices and shall be disseminated at the least aggressive price of all such aggregated odd-lots.[947]

The Commission preliminarily believes that these amendments could potentially change the spread between national best bid and offer for these higher priced stocks because the NBBO would now be calculated based off of the smaller round lot size. To the extent that odd-lot shares exist in these stocks at prices that are better than the national best bid and offer (*i.e.,* at prices higher than the national best bid and prices lower than the national best offer), the new national best bid and offer under the proposed amendments may be at a higher/lower price because fewer odd-lot shares would need to be aggregated together (possibly across multiple price levels) to form a round lot. This could result in a quoted spread that is calculated based off of the NBBO being smaller for these stocks. The Commission preliminarily believes that the reduction in spreads would be greater in higher priced stocks because stocks in higher priced tiers would have fewer shares included in the definition of a round lot.[948]

The proposed amendments would also change the definition of a protected quote from a round lot to 100 shares.[949] This would increase the number of shares required for a quote to be protected for the twelve stocks that currently have round lot sizes of less than 100 shares.[950] Additionally, the proposed amendments would only allow odd-lot orders at a single price point to be aggregated together to form a protected quote.[951] As discussed above, several exchanges already aggregate odd-lot orders across different price levels into round lots and report such aggregated odd-lot orders as protected quotes to the exclusive SIPs.[952] To the extent that a stock currently has odd-lot shares inside the NBBO, the Commission preliminarily believes the proposed amendments could cause the protected quotes to widen because odd-lot shares at multiple price levels could no longer be aggregated together to create a protected quote.[953] Additionally, if stocks have periods of time when they do not have 100 aggregated shares at the same price point, then under the proposed amendments, they could have increased periods of time during which they might not have a protected quote. The Commission cannot quantify to what extent protected quotes would widen because the effects would partially depend on how market participants adjust their order submissions based on the new round lot size, which the Commission is unable to predict. However, the Commission preliminarily believes that these effects would vary based on the price of the stock. For stocks with prices in the lowest proposed round lot tier, *i.e.* stocks with prices of $50.00 or less, the Commission preliminarily believes that the effects would be minimal because the round lot size would not change for these stocks and because there is evidence that these stocks have fewer odd lots inside the current NBBO.[954] The Commission preliminarily believes that the effect on protected quotes would be greater for stocks with higher prices. Since higher priced stocks appear to have more odd lots inside the current NBBO,[955] the Commission preliminarily believes that under the proposed amendments their protected quotes could widen. The

[945] *See supra* Section III.C.1(d).

[946] The round lot size for the twelve stocks that currently have round lot sizes less than 100 shares could also change as a result of the proposed amendments. For some of these stocks, the round lot size may increase, which could cause the quoted spread derived from the NBBO to widen. *See supra* Section III.C.1.

[947] *See supra* Section III.C.1. Several exchanges already aggregate odd-lot orders into round lots and report such aggregated odd-lot orders as quotation information to the exclusive SIPs. *See supra* notes 157–158 and accompanying text.

[948] *See supra* Section III.C.1. Also, for additional analysis of the narrowing of spreads as a result of the new round lot definition, *see supra* VI.C.1(b)(i).

[949] *See supra* Section III.C.1(d)(i).

[950] *See supra* notes 141, 251.

[951] *See supra* Section III.C.1.

[952] *See supra* note 85 and accompanying text.

[953] Although such a widening of the protected quote could impact execution quality of orders, the Commission preliminarily believes that best execution obligations of broker-dealers may mitigate this result.

[954] *See supra* Section III.C.1(b) (discussing staff odd-lot analysis).

[955] *Id.*

Commission preliminarily believes that both the amount by which, and the proportion of time, the protected quote would be wider under the proposed amendments would increase with the price of the stock.[956] The Commission invites comments and analysis in order to estimate to what extent the protected quotes would widen under the proposed amendments.

The Commission preliminarily believes that the change in the round lot and protected quote definition could have an effect on retail order flow internalization businesses. Currently, some wholesalers,[957] by arranging to execute orders on behalf of retail broker-dealers, offer superior prices relative to the existing NBBO (*i.e.,* price improvement) to retail investors. As part of this arrangement, the wholesaler typically agrees that some percentage of the broker-dealer's orders will execute at prices better than the NBBO and/or agrees to certain execution quality metrics. The Commission expects that the new definition of a round lot will, at times, make the NBBO narrower for the affected stocks because the new definition would include orders that are at superior prices to the 100 share NBBO at a size less than 100 shares. As a result, it may become more difficult for the retail execution business of wholesalers to provide price improvement and execution quality metrics at levels similar to those provided under the 100 share round lot definition today.

It is also possible that by the same mechanism retail investors could experience an improvement in execution quality from these wholesalers.[958] Assuming that the NBBO has narrowed, and wholesalers continue to agree to provide a certain level of price improvement off of the narrower spread, this would lead to better execution prices for retail investors. To the extent that retail wholesalers are held to similar execution quality standards by retail broker-dealers in a narrower spread environment, this could have a negative effect on the profitability of the retail execution business for wholesalers, given that there would be less ''spread profit'' available to the wholesaler in a narrow spread environment. This is, in part, because the wholesaler may often keep a portion of the spread profit that is not given as price improvement to the investor who submitted the order. Therefore, if the NBBO has narrowed and price improvement must still be provided, there would be less revenue for the wholesaler.[959] To the extent this happens, it would be a transfer from the wholesaler to retail investors.

To make up for lower revenue per order filled in a narrower spread environment, wholesalers could respond by changing how they conduct their business in a way that could affect retail broker-dealers. There are several possibilities, including but not limited to, reducing per order costs associated with their internalization programs, such as reducing any payments for order flow or reducing the agreed upon metrics for price improvement. In the event that wholesalers reduce payments for order flow, retail broker-dealers could respond by changing certain aspects of their business. The Commission is uncertain as to how wholesalers may respond to this proposal, and, in turn, how retail broker-dealers may respond to those changes, and the Commission is uncertain as to the extent of these effects.

The effect of lost revenue for wholesalers discussed above may be reduced if wholesalers use proprietary feeds to trade, to the extent they already see and respond to odd-lot quotations inside the NBBO and currently provide execution quality to customers based upon the superior odd-lot quotations.

The Commission preliminarily believes that the change in the NBBO and the protected quote caused by this proposal could change the share of order flow captured by each exchange. Currently, Rule 611 requires that the trading center on which the order is executed prevent executions that result in trade-throughs of protected quotes,[960] and exchange rules provide for the aggregation or ''rolling up'' of odd-lots of different prices to produce protected quotes.[961] With the NBBO based off of the new round lot definition, the protected quote remaining at 100 share quotes, and a change in the ''roll up'' practice for odd-lot quotes, the Commission preliminarily believes that there would be changes in how orders are routed to fulfill both best execution requirements and protected quote requirements. These changes might not be uniform across exchanges, and it is possible that some exchanges would see an increase in order flow. This particular effect would represent a transfer of business (and therefore transaction fees) between the exchanges.

Also, the Commission preliminarily believes that changes in the NBBO caused by the new round lot and protected quote definitions could also affect other trading venues, including exchanges and ATSs.[962] Exchanges and ATSs have a number of order types that are based off of the national best bid and offer.[963] Changes in the NBBO could affect how these order types perform and could also affect other orders they interact with. Some ATS matching engines also derive their execution prices based off of price improvement measured against the NBBO. Changes in the definition of the NBBO could affect execution prices on these platforms. Overall, the Commission preliminarily believes that these interactions could affect order execution quality on different trading platforms, but it is uncertain of the direction or magnitude of these effects.

Changes in execution quality could in turn affect competition for order flow between different trading venues, with trading venues that experience an improvement/decline in execution quality attracting/losing order flow. However, the Commission is uncertain of the direction or magnitude of these effects.

The Commission preliminarily believes that market participants who currently rely solely on core data to obtain NBBO feeds would incur some infrastructure investment costs as a result of the proposed amendment to change the definition of a round lot. This is based on the Commission's belief that the proposed amendment would lead to more frequent updates to the NBBO and that this would result in an increase in message traffic for NBBO feeds.[964] The Commission acknowledges that having an NBBO feed is an essential component of the broker-dealer business. The Commission is unable to estimate the associated costs because it does not have access to

[956] The Commission preliminarily believes that under the proposed amendments some high priced stocks that currently have round lot sizes of less than 100 shares may not have a protected quote in place for much of the trading day because they might have price levels with size greater than or equal to 100 shares.

[957] *See supra* note 892 for discussion of wholesalers and retail internalization.

[958] This improvement may not be transparent to the retail investor. *See infra* note 976 for further discussion of this point.

[959] The NBBO based off of the new round-lot definition would be relevant to the spread considered by the wholesalers because, among other things, it would be used for Rule 605 execution statistics. *See infra* Section VI.C.1(c)(iii) for further discussion of Rule 605 statistics.

[960] *See supra* notes 234–235.

[961] *See supra* note 157.

[962] *See supra* Section VI.C.1(c)(iii) for additional discussion of effects on exchange rules.

[963] For example, the apparent price improvement over the NBBO calculated off of core data that is offered by a midpoint crossing network would be reduced as a result of these changes to the NBBO.

[964] As discussed previously, this will happen more in high-priced stocks where the new round lot definition will have more of an effect. *See supra* Section III.C.1(d)(i).

information about the infrastructure expenses a broker-dealer incurs to process market data and because of the likelihood that such costs vary substantially according to the existing infrastructure of broker-dealers, but the Commission invites comments on the issue.

For certain core data use cases, the costs described in the preceding paragraph are likely to be minimal. Many broker-dealers, when accessing data for the purposes of visual display, currently obtain NBBO quotes from the exclusive SIPs with a ''per query'' use case. This use case is set up so that a quote is only sent when it is asked for. The Commission preliminarily believes that this setup has very little technological cost associated with it and that furthermore whatever cost there is to receiving such a feed would not be impacted by increasing the number of times the NBBO is updated over a given time period. Thus, the Commission believes that for those broker-dealers who rely on per query use cases for their quotes, the upgrade costs resulting from changing the round lot definition would be minimal.[965]

Trading venues and broker-dealers could also experience implementation costs from having to modify and reprogram their systems, including matching engines and SORs, to account for the changes in the NBBO and protected quotes caused by the proposed amendments. For costs to trading venues as a result of changes to the protected quotations, NBBO, and the new restriction on roll up quotes, the Commission does not have detailed information on the operation of exchange matching engines. However, the Tick Size Pilot required re-programming of exchange matching engines as well. For that pilot, CHX estimated that total costs for implementing the pilot were $140,000 per SRO and market center.[966] The Commission preliminarily believes that this number may provide some sense of the level of cost associated with the changes SROs, ATSs, and other off-exchange trading venues would have to make in order to comply with the new rules regarding protected quotes. In addition, there could be variation in this cost between different market centers or categories of market centers depending on the existing state of their infrastructure. The Commission invites comments on the reasonableness of this number as an approximation for the cost to update matching engines.

Broker-dealers may also incur implementation costs. For example, a broker-dealer who runs an SOR off of core data alone would now have to adapt this system to keep track of the NBBO separately from the protected quote. This is particularly relevant for the submission of Intermarket Sweep Orders (''ISOs''), where the broker-dealer assumes responsibility for preventing trade-throughs. For ISOs, the broker-dealer's SOR would now have to simultaneously target liquidity available at the NBBO while keeping track of protected quotes to prevent trade-throughs. The Transaction Fee Pilot required re-programming of SORs as well, and forms a basis for an estimate of these costs. For that pilot, the Commission estimated that the costs of a one-time adjustment to the order routing systems of a broker-dealer would $9,000 per broker-dealer.[967] The Commission preliminarily believes that this number may provide some sense of the level of cost associated with changes that broker-dealers, as well as other entities making real-time order routing decisions based off of SIP data, would have to make as a result of the proposed changes to the NBBO and protected quote and other implementation costs discussed below.[968] Such costs are likely to vary substantially across broker-dealers according to the state of their existing infrastructure. The Commission invites comment on the reasonableness of this number as an approximation for the costs to update trading systems to deal with this implementation cost and the implementation costs discussed below.

The Commission is also deleting the reference to ''The Nasdaq Stock Market, Inc.'' from the definition of protected bid or offer and believes that this changes would have no economic effects. As explained above in Section III.C.1(d)(ii), Nasdaq is now a national securities exchange and is thus otherwise bound by the definition.

(ii) Amendments to Locked/Crossed Markets

The Commission preliminarily believes that the proposed amendments could cause an increase in the frequency of locked and crossed NBBOs in certain stocks.[969] This is expected to occur due to the fact that the existing locked and crossed markets prohibition, as affected by the proposed amendments, would only apply to protected quotations (or the PBBO) and not to the new round lot sizes, which may often constitute the NBBO. As described above in Section III.C.1(d)(ii), Rule 610(d), which requires trading centers to establish procedures to prevent orders being entered that would lock or cross markets, is based solely on protected quotations, which, as proposed to be defined, may not be the NBBO. If a locked and crossed NBBO is not prohibited by rule, it is more likely to occur.

The Commission preliminarily believes that this increase is unlikely to have much economic effect. The new round lot definition may cause the NBBO to narrow. The Commission preliminarily understands that it can sometimes happen that a market becomes locked or crossed in odd-lot orders. To the extent that these odd-lots are included in the new definition of a round lot, the NBBO will appear locked or crossed on occasion. The Commission preliminarily anticipates that the fact that they will now be classified as a locked or crossed NBBO will not make much difference, because these locked or crossed conditions already occur in odd-lots. Furthermore, the effect of having these locked or crossed quotes visible to market participants who rely solely on core data is unlikely to be different from the general effects discussed for the added information as a result of the change in the round lot definition. In particular, to the extent that these crosses and locks in odd-lot sizes represent a profitable trading opportunity to those market participants who rely solely on exclusive SIPs, being able to observe the occurrence of these events as a result of the proposed change to the round-lot definition would be a benefit to these

[965] This conclusion is contingent on the assumption that competing consolidators would choose to offer a per query service to market participants so that this arrangement could continue after the rule takes effect.

[966] *See* Letter to Brent J. Fields, Secretary, Commission, from James G. Ongena, General Counsel, Chicago Stock Exchange, Inc. (Dec. 22, 2014).

[967] *See* Securities Exchange Act Release No. 84875 (Dec. 19, 2018), 84 FR 5202 (Feb. 20, 2019) (Transaction Fee Pilot for NMS Stocks).

[968] The Commission preliminarily believes that this $9,000 estimate would cover the changes that would have to be made as a result of the proposed distinction between the NBBO and the protected quote as well as changes that would result from the effect of the proposal on locked or crossed markets. These costs are discussed below, *see infra* Section VI.C.1(c)(ii).

[969] Locked and crossed markets already occur with respect to odd-lot quotes and are observable to market participants who subscribe to proprietary feeds. *See supra* note 256 and accompanying text. Even if there is no increase in the frequency of locked and crossed markets, their occurrence may still be observed by a higher number of market participants under the proposed amendments because of the change in the round lot definition.

market participants.[970] Also, to the extent that market participants who currently subscribe to proprietary feeds are able to profit from being the only market participants to observe crossed or locked odd-lots, the proposed change will represent a cost to them.[971] To the extent that the ability to profit from observing crossed or locked odd-lot quotes comes from exploiting those market participants who cannot see the crosses or locks, this change will represent a transfer from those who currently trade on this information to those who acquire the information through new core data and are able to use it effectively.[972] It is also possible that traders avoid sending orders because of the risk of being exploited if they cross or lock the market. To the extent that this happens, and to the extent that the proposed expansion of core data addresses this concern, the increase in trading that would result would represent a benefit to both sides of the trade.[973]

The Commission preliminarily believes that some crossed or locked quotes represent traders who are not aware at the time they post their quote that the quote could be filled by a marketable order elsewhere. To the extent this happens it represents a cost to this trader since the posted order is exposed to the risk that it will be executed with a marketable order at a price inferior to what is available on the market to the trader who posted the order.

Market participants would also experience implementation costs in order to modify their systems to account for locked and crossed NBBOs. The Commission preliminarily believes that to the extent that market participants currently rely on the exclusive SIPs to keep track of whether trading restrictions imposed by Rule 610(d) would apply, their systems would have to be updated to take into account the fact that the NBBO is no longer the price point at which such restrictions are triggered. Instead, they would have to keep track of both the NBBO for trading purposes, and the new protected bid and offer in order to monitor whether a 610(d) restriction would apply. The costs to make such changes are covered by the estimate provided above for costs to implement changes that would result from changes to the NBBO and protected quote, since that estimate is related to trading system adjustments.[974] Such costs are likely to vary substantially across market participants depending on their existing infrastructure.

An increase in the frequency of locked and crossed markets could also have additional economic effects. As discussed above, it could cause a change in order routing behavior and order flow between trading venues. Furthermore, as discussed below, it could also affect the calculation of Rule 605 execution statistics.

(iii) Other Rules and Regulations

The changes to core data, particularly the changes to the definition of ''national best bid and national best offer'' affect how other rules and regulations operate. In particular, this change affects which orders determine the reference price for numerous rules, including rules under the Exchange Act, SRO rules, and NMS plans. The Commission discussed many of these above in Section III.C.1(d)(i). Specifically, the Commission preliminarily believes that the changes to the NBBO may present changes to the benchmark prices used in Regulation SHO, LULD, retail liquidity programs, market maker obligations, and certain exchange order types and recognizes that the change in the benchmark price could result in economic effects. Further, changing the NBBO would alter the estimation mechanics for Rule 605 metrics, resulting in implementation costs. In addition, the proposed round lot definition would result in economic effects through its impact on the Rule 606 compliance. Finally, the Commission preliminarily believes that the proposed rules, though appearing to change the requirements of several other rules and regulations, would not necessarily have an economic impact through these other rules and regulations.

For Rule 201 of Regulation SHO, the reference bid for the execution of a short sale transaction could be higher under that proposal than it is currently, potentially slightly increasing the burdens on short selling. Currently, after the Short Sale Circuit Breaker triggers, short sales can only execute at prices greater than the NBB. While short sales are currently permitted to execute against any odd-lot quotations that exist above the NBB, the proposed round lot definition would reduce the instances of such odd-lot quotations. Therefore, the proposal could result in a higher NBB and thus result in a slightly higher benchmark price for short sale executions in stocks priced more than $50, reducing the fill rate of short sales or increasing the time to fill for short sales.

In addition, a potentially higher NBB price or potentially lower protected best bid could marginally affect the trigger of the Short Sale Circuit Breaker. In particular, the proposal could result in slight delays in or a reduction in the number of Short Sale Circuit Breaker triggers, or it could have the opposite effect. In particular, an NBB that includes smaller round lots could result in a higher-priced execution relative to an NBB that does not include smaller round lots. This higher-priced execution could be above the price that would trigger the Short Sale Circuit Breaker whereas an execution on a 100-share quote would have triggered the circuit breaker. This could delay the trigger if the price continues downward, such that the circuit breaker still triggers, or the circuit breaker may not trigger at all if the price rebounds after such an execution. On the other hand, if the proposal results in a lower protected bid, it could have the opposite effect on circuit breaker triggers: Triggering sooner and more often.

The Commission preliminarily believes that the economic effects of the potential impact on the Short Sale Circuit Breaker are unlikely to be significant. These effects should not create implementation costs, and the Short Sale Circuit Breaker should continue to function consistent with its stated purpose. Notably, if the proposal would result in not triggering as many Short Sale Circuit Breakers, it could reduce ongoing compliance costs in situations in which the price rebounds despite the lack of a price test on short sales.

Similarly, a potentially higher bid price or lower offer price could affect the trigger of a Limit State under the LULD Plan. A lower-priced NBO or a high-priced NBB could result in that quote being more likely to touch a price band, thus triggering a Limit State, when it otherwise would not have. Depending on whether the quote would have otherwise rebounded, this could increase the number of Limit States and/or Trading Pauses or could merely trigger such Limit States or Trading pauses sooner. As in the case of the Short Sale Circuit Breaker, the effects should not create implementation costs, and LULD should continue to function consistent with its stated purposes. In

[970] *See supra* Section VI.C.1(b)(i) for further discussion of such benefits resulting from the new round-lot definition.

[971] *See supra* Section VI.C.1(b)(iv) for further discussion of such costs resulting from the new round-lot definition.

[972] *See supra* Sections VI.C.1(b)(i) and VI.C.1(b)(iv) for further discussion of transfers resulting from the changes to the round-lot definition.

[973] *See supra* Section VI.C.1(b)(i) for further discussion of such benefits resulting from the new round-lot definition.

[974] *See supra* note 968 and accompanying text.

addition, the economic effects of this potential marginal change depends largely on how often odd-lot quotations lead price declines or lead price increases.

As discussed above,[975] a number of Rule 605 execution quality statistics are benchmarked to the NBBO. Under the proposed amendments, the NBBO would be based on the proposed tiered, price-based round lot sizes, which means any Rule 605 execution quality statistics that rely on the NBBO as a benchmark would reflect the modified definition of the NBBO. This could cause certain execution quality statistics to change in higher priced stocks. As discussed above, the Commission preliminarily believes that the NBBO would become narrower for some stocks in higher price tiers. This could cause execution quality statistics that are measured against the NBBO to change because they would be measured against the new, narrower NBBO. For example, execution quality statistics on price improvement for higher priced stocks may show a reduction in the number of shares of marketable orders that received price improvement because price improvement would be measured against a narrower NBBO. However, the Commission preliminarily believes that some of these changes may cause some Rule 605 statistics to more accurately reflect actual execution quality because the NBBO based on the new definition for round lots may now take into account more liquidity that the current NBBO ignores.[976] The Commission preliminarily believes that these effects would be larger for stocks in higher price tiers because their new round lot definition would include fewer shares.

In addition, the NBBO midpoint in stocks priced higher than $50 could be different under the proposal than it otherwise would be, resulting in changes in the estimates for Rule 605 statistics calculated using NBBO midpoint, such as effective spreads. In particular, at times when bid odd-lot quotations exist within the current NBBO but no odd-lot offer quotations exist (and vice versa), the midpoint of the proposed NBBO would be higher than the current NBBO midpoint. For example, if the NBB is $60 and the NBO is $60.10, the NBBO midpoint is $60.05. Under the proposal a 50 share buy quotation at $60.02 would increase the NBBO midpoint to $60.06. Using this proposed midpoint, effective spread calculations for buy orders would be lower but would be higher for sell orders. More broadly, the proposal would have these effects whenever the new round lot bids do not exactly balance the new round lot offers. However the Commission does not know to what extent or direction that odd-lot imbalances in higher priced stocks currently exist, so it is uncertain of the extent or direction of the change.

Additionally, a change in the rate of locked and crossed markets could also affect how Rule 605 execution quality statistics are calculated. The Commission preliminarily believes that orders received when the NBBO is crossed for more than 30 seconds are generally not included in Rule 605 execution statistics. To the extent the changes in the definitions of round lots and protected quotes cause an increase in the frequency or length of crossed markets, more orders could end up being excluded from Rule 605 execution statistics, which could cause some Rule 605 execution statistics to less accurately reflect actual execution quality.

Finally, the Commission recognizes that such changes could force market centers (or their third-party service providers) to revise their processes for estimating the Rule 605 execution statistics. Such changes would result in implementation costs.

The Commission recognizes that the NBBO serves as a benchmark in SRO rules in addition to Exchange Act rules and NMS plans. For example, the NBBO acts as a benchmark for various retail liquidity programs on exchanges, for exchange market maker obligations, for some order types, and for potentially many other purposes.[977] As such, including smaller quotes in the NBBO would change how these rules operate and these changes could have economic effects. For example, having to post more aggressive limit orders into retail liquidity programs could reduce the already low volume by reducing the liquidity available but could result in better prices for those retail investors able to execute against that liquidity. In addition, a narrower NBBO could effectively increase some market maker obligations, which could improve execution quality for investors and/or provide a disincentive to being a market maker on the margin. Alternatively, the exchanges with such retail liquidity programs, order types, or market maker obligations could elect to propose rule changes to maintain the current operation of these rules. Such proposals could mitigate any follow-on economic effects (both benefits and costs) but would require exchanges to incur the expenses associated with proposing amendments to their rules. The Commission understands that the proposed changes to the NBBO could affect numerous other SRO rules and requests comment on any significant follow-on economic effects.

As discussed above,[978] the proposed definition of round lot could result in an increase in the number of indications of interest in higher priced stocks that would be required to be included in 606(b)(3) reports. Depending on the number of potential indications of interest included as a result of the proposed rule, the Commission preliminarily believes that these changes could increase the benefits of Rule 606(b)(3) with little to no effect on costs.[979] In particular, the inclusion could result in clients receiving information on order routing for more of their orders, with the resulting benefits. Further, because the incremental cost of adding orders to the reports is low, the Commission does not expect that adding additional indications of interest to the reports would significantly increase costs.

In addition, the Commission preliminarily believes that the proposal may result in some rules appearing to change but such changes might not result in economic effects. For example, the proposed amendments may impact the compliance with Rules 602(a), 602(b), 604(a)(1), 604(a)(2), and Rule 610(c). It is unclear whether these impacts would have economic effects. For example, exchanges may already have procedures to collect and make available their best bids and offers to vendors, regardless of the size of those best bids and offers. Further, broker-dealers may already treat all bids and offers as firm quotes regardless of size and may already display all customer limit orders regardless of size. Finally,

[975] *See supra* Section III.C.1(d)(i).

[976] In the hypothetical case of a stock in which there are often valuable odd-lot quotes, broker-dealers trading in this stock can currently use these odd-lot quotes to improve on the NBBO, and this improvement might be reflected in Rule 605 statistics. Under the proposed change, if this stock is priced over $50 per share, then some of these odd-lot quotes could end up being defined as round lots under the new definition and thereby end up the basis for the NBBO. With these quotes as the NBBO, the broker-dealer would no longer appear to be improving over the NBBO in its execution, and Rule 605 statistics may appear to indicate a decrease in execution quality. However, they would, in fact, merely be reflecting a more accurate picture of the market circumstances at the time of execution.

[977] For a discussion of the effect of changes to the NBBO on order types and to exchange odd-lot ''roll-up'' practices for protected quotes, *see supra* Section VI.C.1(c)(i). For discussion related to changes to round lot size for stocks with round lots of less than 100 shares, *see supra* note 946.

[978] *See supra* Section III.C1 (discussion of how the definition impacts Rule 606).

[979] *See* 606 Adopting Release, *supra* note 227, for a discussion of the benefits of 606(b)(3).

exchanges may already pay the same rebates or charge the same access fees regardless of order size. To the extent that these practices are in place, there would be no economic effect from these changes. To the extent that these practices are not in place, the proposal may result in some additional compliance costs. The Commission invites comments on the impact of the proposal with compliance cost for Rules 602(a), 602(b), 604(a)(1), 604(a)(2), and Rule 610(c).

(iv) Request for Comments

The Commission requests comments on its analysis of the economic effects of the proposed amendments to the NBBO, protected quotes, and other conforming changes. In particular, the Commission solicits comment on the following:

210. Effectively, the proposed round lot definition reduces the minimum quotation size for the NBBO, depending on the price of the security. The Commission requests that commenters provide any insights they may have as to the economic effects of price-improving odd-lot quotes being reported as the NBBO in the new core data.

211. Do you agree with the Commission's data analysis of the potential frequency of improvements to the NBBO and the magnitude of improvements to the NBBO spread? Why or why not? Please provide additional data analysis as needed to support your answer.

212. What would be the economic effects of the proposed changes to the PBBO? For the twelve stocks that currently have a round lot defined as one share, how often would such securities not have a protected best bid (''PBB'') or protected best offer (''PBO'')? What would be the economic effects of not having a PBB or PBO in these stocks? For stocks that tend to have a significant number of odd-lots that are rolled-up into the current PBBO, the proposed changes to the PBBO could widen the PBBO spread. What would the magnitude of this increased spread be and how often would the PBBO be wider? Would a wider PBBO necessarily result in higher transaction costs for investors? If so, by how much would transaction costs increase? Please explain and provide any data analysis needed to support your answer.

213. How do exchanges currently calculate their protected quotes? If the proposal were to allow odd-lots to be rolled up across prices to create a protected quote, how would the PBBO be different than the proposed PBBO? Would the economic effects of such a change be different than the economic effects of the proposed protected quotes? Please explain.

214. How would the changes to the NBBO and protected quotes affect off-exchange executions? What benchmark price would ATSs, internalizers, and other off-exchange venues use to price transactions? Would this differ from current practice? Please explain. What would be the effect of this on transaction costs of off-exchange executions? How large would any change in transaction costs be?

215. How would the proposed changes to the NBBO and protected quotes affect transaction costs incurred by various investor types—*e.g.,* active institutional investors, passive institutional investors, and retail investors? Please explain. How large would any change in transaction costs be for each investor type? Please provide any data analysis needed to support your answer.

216. How would the proposed changes to the NBBO and PBBO affect order routing decisions and the share of order flow captured by each exchange and off-exchange venue? Would some exchanges or other venues gain order flow while others lose order flow? What are the factors that could determine a gain or loss in order flow? Can you quantify this change in order flow? What would be the economic effects of any changes in order flow? Would such changes result in net welfare gains or losses? Please explain in detail.

217. Under the proposed NBBO, what would ATSs and other off-exchange venues use as a benchmark to price executions on their system? How would this affect execution quality for investors? How would the proposed NBBO affect the operation of certain orders types on ATSs? Please explain.

218. To what extent would the proposed NBBO result in additional message traffic for those market participants who currently rely on SIP data and, under the proposal, would receive and use NBBO but not depth of book information? Would these market participants incur significant initial costs to prepare to receive and use such additional message traffic? Would these market participants incur significant ongoing costs in receiving and using such additional message traffic? Do you agree that most such broker-dealers currently pay for SIP NBBO data on a ''per query'' basis and, therefore, would not incur significant initial or ongoing costs as a consequence of any increase in message traffic? Please explain.

219. To what extent would the proposal result in exchanges and other trading venues incurring costs to reprogram their matching engines to account for changes in the NBBO and protected quotes?

220. Do you agree with the Commission's assessment about the implementation costs for implementing a definition of the protected quote that differs from the NBBO? Why or why not? Please also submit any insights you may have as to the size and scope of the effect of this change.

221. Would the change to the NBBO result in an increase in the proportion of time in which the market is locked or crossed? Why or why not? If so, what would be the economic effects of this increase? Would this effect vary across securities? Please explain in detail.

222. How often do locks or crosses occur between odd lot orders today? Please provide any data analysis needed to support your answer.

223. Would an increase in locked or crossed markets result in market participants incurring additional implementation costs to account for this increase? If so, what would be the magnitude of the additional implementation costs? Please quantify. Do you agree with the Commission's assessment of the relevant costs?

224. Do you agree that the proposed definition of the NBBO could change the benchmark price for short sale executions following a trigger of Rule 201 of Regulation SHO? What would be the economic effects of the changes in the benchmark? Would the proposal significantly increase the burdens on short selling following a trigger? Please explain.

225. Do you agree that the proposed definition of the NBBO could reduce the frequency of triggers of Rule 201 of Regulation SHO? Would such a reduction have significant economic effects? Why or why not? Please explain.

226. How would the proposal alter the operation of Rule 605? If so, would such changes have any economic effects? Would execution quality appear better or worse for all market participants or would it affect the relative appearance of execution quality? Would the changes result in actual changes to execution quality or just apparent changes in execution quality? Would the changes result in fewer orders being included in the Rule 605 statistics? Please explain.

227. The proposed changes to the NBBO and Protected Quotes likely affect the operation of numerous SRO rules. Please provide information on the number and type of SRO rules that rely on the NBBO or protected quotes. Assuming the SROs do not propose amendments to these rules, what would be the effect of the proposed changes to the NBBO and protected quotes on the

operation of these SRO rules and the likely resulting economic effects? How much would SROs expend in proposing to amend their rules, assuming the SROs choose to amend their rules? Please provide estimates of such costs.

2. Decentralized Consolidation Model

This section focuses on the economic effects pertaining to the proposed decentralized consolidation model. The section first discusses relevant broad economic considerations and economic benefits and costs of the proposed model with regards to competing consolidators, then addresses economic benefits and costs for self-aggregators, and concludes with the discussion of conforming changes.

(a) Broad Economic Considerations About the Decentralized Consolidation Model

The economic analysis of the effects of the decentralized consolidation model assumes that upon the introduction of the model, a sufficient number of competing consolidators would enter the market so that competitive market forces would have a significant effect on their behavior. Several factors affect the reasonableness of this assumption: Competing consolidators' ability to offer differentiated products, barriers to entry into the competing consolidator space, the fees for data content and consolidation and dissemination services, and the uncertainty regarding connectivity charges for proposed consolidated market data. While the Commission recognizes uncertainty in these factors and that certain economic impacts depend on this assumption, the Commission believes that the risk of few or zero competing consolidators is low. Further, the Commission notes that it would consider the state of the market and the general readiness of the competing consolidator infrastructure in determining whether to approve an NMS plan amendment that would effectuate a cessation of the operation of the existing exclusive SIPs.

(i) Factors

This section discusses the factors affecting the reasonableness of the assumption that a sufficient number of competing consolidators would enter the market.

a. Competing Consolidators' Ability To Offer Differentiated Products

The first factor that may affect the number of firms willing to register as competing consolidators is firms' ability to offer differentiated products. Market participants' demand for proposed consolidated market data is likely to be heterogeneous because there are many different investor types (*e.g.,* retail investors, small banks, market participants focused on value investment) that have differing investment strategies. The ability of competing consolidators to attract different investor types would depend on fees set by the national market system plan(s) and competing consolidators' ability to differentiate among themselves.[980]

Competing consolidators' ability to differentiate may be necessary to ensure multiple competing consolidators are serving the market for the following reasons. As discussed above, the production of consolidated data involves relatively higher fixed costs and lower variable costs.[981] In such markets, the firms have additional incentives to increase the number of their customers in order to spread the fixed cost across a larger base of consumers. Therefore, due to the fixed-cost nature of the market and resulting economies of scale, without differentiation, the competing consolidator market could consist of only one competing consolidator because the largest competing consolidator would be able to offer the most competitive price.

However, the Commission preliminarily believes that the competing consolidators would be able to differentiate among themselves by product customization; by focusing on different segments of demand; and/or by offering varying levels of other services such as customer service, ease of user interface, analytics, data reformatting and normalization services, and latency rates. Competing consolidators could offer different consolidated data products that range from full consolidated market data to subsets of consolidated market data such as top of book products. In addition, because exchanges offer different connectivity options, some competing consolidators could differentiate themselves by specializing in lower latency data. Other competing consolidators could target data users who might prefer not to have the lowest latency product if the higher latency products came with a lower price or additional analytics. Competing consolidators could offer a range of user interfaces and analytics (*e.g.,* various ways to display consolidated data, or provide forecasting services) that appeal to different data users or could even offer an analytical environment to customize analytics (*e.g.,* offer software tools allowing market participants to analyze and summarize consolidate data). Differentiation along these dimensions would allow competing consolidators to offer different services at potentially different prices to different types of end users. Therefore, the market would be able to sustain multiple competing consolidator businesses, and this would encourage further entry into the market.

b. Barriers to Entry

The second factor that would affect the number of competing consolidators is the barriers to entry into the competing consolidator space. Potential entrants into the competing consolidator business could incur two types of barriers to entry: Business implementation costs that emerge from the technical necessities of becoming a competing consolidator and regulatory compliance costs. The business implementation costs would include creation or modification of technical systems to receive, consolidate, and disseminate the proposed consolidated market data. Competing consolidators would need to have systems and connections in place to receive data content from all SROs and then to disseminate the proposed consolidated market data to a variety of market participants who would purchase their products. Further, based on the proposed rule, potential entrants would need to satisfy two compliance requirements to become competing consolidators. The first is the Regulation SCI requirements[982] that would be applicable to competing consolidators because the proposed rule amends Rule 1000 of Regulation SCI to expand the definition of ''SCI entity'' and include competing consolidators. The second is the proposed Rule 614 requirements, including the Form CC requirements.[983] There would be both initial implementation and ongoing costs to comply with these two regulatory requirements. Both the business implementation and regulatory compliance costs would differ based on the entrant type. As discussed above,[984] the Commission preliminarily believes that five types of entities may register to become competing consolidators: (1) Market data aggregation firms, (2) broker-dealers that currently aggregate market data for internal uses, (3) the existing exclusive SIPs, (4) new non-SRO entrants, and (5) SROs. The

[980] *See infra* Section VI.C.2(a)(iii) for a discussion of the influence of fees on the ability to differentiate.

[981] *See supra* Section VI.B.3(a).

[982] *See supra* Section IV.B.2(e)(ii).

[983] *See supra* Section IV.B.2(e).

[984] *See supra* Section V.D.2.

barriers to entry would differ across these five types of entities.

The Commission preliminarily believes that the existing market data aggregation firms and some broker-dealers that currently aggregate market data for internal uses could face large barriers to entry to become competing consolidators. Because they currently collect, consolidate, and, in some cases, disseminate market data to their customers, much like competing consolidators would, the Commission preliminarily believes that firms and broker-dealers that currently aggregate proprietary market data would not have to extensively modify their systems. However, the Commission preliminarily believes that each of these firms and broker-dealers would incur costs to expand their bandwidth and purchase hardware to receive information that is not currently disseminated in the exchange proprietary market data feeds, such as the proposed regulatory data and administrative data. Further, based on the proposed rule, current market data aggregators and broker-dealers that currently aggregate market data for internal uses would incur new compliance costs to satisfy the two regulatory compliance requirements to become competing consolidators. As discussed below,[985] these costs could be large and therefore may affect entry and the benefits of the decentralized consolidation model.

The Commission preliminarily believes that barriers to entry for exclusive SIPs to become competing consolidators are low and are likely lower than the barriers to entry of the existing market data aggregation firms and some broker-dealers that currently aggregate market data for internal uses. The Commission preliminarily believes that the existing exclusive SIPs may choose to become competing consolidators due to their years of experience in collecting, consolidating, and disseminating market data. Because the systems used by the exclusive SIPs already collect information in quotations and transactions from the SROs, aggregate it, and disseminate it, the Commission preliminarily believes that the exclusive SIPs would not have to extensively modify their systems.[986] The Commission preliminarily believes that each exclusive SIP would incur costs to expand their bandwidth and connections to consume and disseminate the expanded consolidated data as well as to transmit it with lower latency, and to program feed handlers to receive and normalize the different formats of the data feeds developed by the exchanges. Additionally, the exclusive SIPs would have some compliance costs. The exclusive SIPs already are required to satisfy Regulation SCI requirements since they are currently SCI entities. And they also have experience with the consolidated market data business. Thus, any exclusive SIP entering the competing consolidator business would only have ongoing Regulation SCI and initial and ongoing compliance costs. The Commission preliminarily believes that the difference between compliance costs to satisfy these requirements and current exclusive SIP compliance costs are small.[987]

The Commission anticipates that firms without prior experience in the market data aggregation business may become competing consolidators but that they would have the highest barriers to entry because they would have to build new systems to comply with the proposed rules. The new entrants would incur costs to program feed handlers to be able to receive and normalize exchange data in different formats, and purchase bandwidth and connections to exchanges and colocation. These costs increase the fixed costs of participating as a competing consolidator in the market, further contributing to the barriers to entry. New entrants would also have the highest compliance costs among all potential entrants, since they would have to build compliance systems from scratch to satisfy both Regulation SCI and proposed Rule 614, including Form CC, requirements. Therefore, the Commission preliminarily believes that there may be a limited number of firms that could enter the market data aggregation business for the first time.

The Commission anticipates that SROs may choose to become competing consolidators. Although SROs may be able to leverage existing systems in developing a system compliant with the proposed rules, the Commission preliminarily believes that SROs would likely have to build at least some new systems and thus may incur initial costs.[988] At the same time, despite higher initial costs, the Commission preliminarily believes that the barriers to entry for SROs are relatively low due to their current unique position in the industry and their particular infrastructure and expertise. Similar to the existing exclusive SIPs, SROs already are required to comply with Regulation SCI. SROs that have experience in the consolidated market data business (*e.g.,* exchanges that currently operate an exclusive SIP) would only incur ongoing Regulation SCI and initial and ongoing Form CC compliance costs. SROs that do not have experience in consolidated market data business would incur some initial Regulation SCI costs in addition to the ongoing Regulation SCI costs. These SROs would also incur initial and ongoing proposed Rule 614, including Form CC, compliance costs. The Commission preliminarily believes that SROs that wish to become competing consolidators could find it convenient to arrange an affiliate to do this work so as to avoid having their competing consolidator business subject to the same regulatory regime as an SRO.[989]

c. Fees for Consolidated Market Data

Another factor that would affect the number of competing consolidators relates to the fees that the effective national market system plan(s) would set for the proposed consolidated market data content and the price competing consolidators would charge market participants for consolidation and dissemination services.[990] If these fees are set too high or have the effect of limiting product differentiation,[991] they could limit the opportunities for competing consolidators to build profitable businesses.

Regarding the fees for the proposed consolidated market data content, the Commission recognizes uncertainty in these fees. The fees charged by the effective national market system plan(s) for the data content necessary to create proposed consolidated market data would be proposed by the operating committee(s) of the national market system plan(s) and filed with the Commission.[992] Because such fees depend on future action by the effective national market system plan(s), the Commission cannot be certain of the level of those fees or whether such fees would provide discounts for those end users who wish to receive subsets of

[985] *See infra* Section VI.C.2(e)(ii).

[986] Based on Commission staff expertise, the Commission understands that existing exclusive SIPs' protocols for receiving direct data from exchanges are not standardized and introduce additional operational complexities. However, the operators of exclusive SIPs, the exchanges, have figured out how to aggregate direct feeds for the purposes of their exchange matching engines, so they have the technology that would be deployable in the new decentralized consolidation model.

[987] *See infra* Sections VI.C.2(d) and VI.C.2(e)(ii).

[988] *See supra* Section V.D.2(e).

[989] As explained above, SROs that wish to act as competing consolidators would not be required to register with the Commission on Form CC. *See supra* note 537.

[990] *See infra* Section VI.C.2(b) (discussing economic analysis of data content, consolidation, and dissemination, and connectivity fees).

[991] *See supra* Section VI.C.2(a)(i)a. (discussing potential dimensions of product differentiation by competing consolidators).

[992] *See supra* Section IV.B.2(c).

consolidated market data.[993] As discussed further below, while these fees would not be set by competition, they must be fair and reasonable and not unreasonably discriminatory. Assuming that such fees would be reasonably related to costs,[994] the Commission believes the resulting data content fees could be set at a level that could help sustain the competing consolidator business. Further, if the national market system plan(s) choose(s) to offer discounts for subsets of consolidated market data, competing consolidators would have greater opportunity to offer differentiated products to market participants. Likewise, exchanges continuing to offer connectivity at different latencies would further promote product differentiation by competing consolidators. The Commission preliminarily believes that the national market system plan(s) could propose such discounts because at least one exchange has suggested tiered SIP data products.[995]

The fees charged by competing consolidators to market participants would also determine how many competing consolidators could profitably exist. Given the high fixed-cost nature of the business, with multiple competing consolidators each competing consolidator's fixed costs would be spread over fewer customers than the costs with just one or few competing consolidators. However, the market for consolidated market data is relatively large enough [996] that the Commission preliminarily believes that the average cost per customer is likely to be reasonable enough to support multiple competing consolidators.

d. Connectivity

The fourth factor affecting the number of competing consolidators is the uncertainty regarding connectivity charges for proposed consolidated market data and their effects on the viability of the decentralized model. The data connectivity fees would continue to be set forth in the exchanges' fee schedules.[997] Connectivity fees for the provision of consolidated market data would be a fixed input cost for competing consolidators, and, therefore, the level of connectivity fees for proposed consolidated market data may affect the economies of scale and the resulting number of competing consolidators. The Commission invites comments on the likely effects of connectivity fees for consolidated market data on the proposed competing consolidator business.

(ii) Impact on Economic Effects of Decentralized Consolidation Model

As discussed in the previous section, there are several factors that may affect the number of competing consolidators entering the market. While the Commission recognizes uncertainty in some of these factors, the Commission preliminarily believes that the risk of few competing consolidators entering the market is low. The Commission also preliminarily believes that the risk of zero competing consolidators is even lower because the possibility of being the only consolidator in the market for proposed consolidated market data could represent a substantial business opportunity—especially given market participants' different preferences for data content and latency—thus leading to entry into the competing consolidator market space. In particular, a monopolist in the market for proposed consolidated market data would be able to charge high prices for the service fee portion of the overall price [998] and thus capture supra-competitive profits from all market participants.[999] Based on the discussion above, the Commission preliminarily believes that entry into the competing consolidator market space will continue until competing consolidators' profits decrease to competitive levels.

The assumption that there would be a sufficient number of competing consolidators entering the market affects some economic effects of the decentralized consolidation model. Generally, many of the benefits and competitive considerations below depend on this assumption. For example, the Commission preliminarily believes that a higher number of competing consolidators would lead to lower fees paid by market participants for proposed consolidated market data,[1000] larger gains in efficiency in the delivery of proposed consolidated market data and market data communication innovations,[1001] as well as a reduction in data consolidation and dissemination latencies.[1002] In addition, some of the costs discussed below also depend on this assumption. For example, the transition to a competing consolidator model would decrease regulatory compliance costs imposed by Regulation SCI on existing exclusive SIPs that may register as competing consolidators, by changing their status from ''critical SCI systems'' to standard ''SCI systems.'' [1003]

While the Commission preliminarily believes that the risk of few competing consolidators is low, as discussed above,[1004] in determining whether to approve an NMS plan amendment that would effectuate a cessation of the operation of the existing exclusive SIPs, the Commission would consider the state of the market and the general readiness of the competing consolidator infrastructure. Examples of some of the things that the Commission could consider include the status of registration, testing, and operational capabilities of multiple competing consolidators, self-aggregators, and market participants; capabilities of competing consolidators to provide monthly performance metrics and other data required to be published pursuant to proposed Rule 614(d)(5)-(6); and the consolidated market data products offered by competing consolidators. Therefore, the Commission believes the economic analysis below represents a reasonable assessment of the potential economic effects of the proposal notwithstanding the assumption of sufficient competing consolidators.

(b) Analysis of the Impact on Data Fees

This section discusses potential effects of the introduction of the decentralized consolidation model on prices market participants pay for consolidated market data. When comparing data fees for proposed consolidated market data with current data fees, this economic analysis holds data content constant. In other words, the fee comparison in this analysis is between what market participants would pay under the proposed rule versus what they currently would have to pay to access the same content of the proposed consolidated market data. After analyzing how fees could change for the same data content, the analysis then considers the costs to various market participants, including those market participants who are likely to expand the content of data from that

[993] *See infra* Section VI.C.2(b)(ii) for further discussion.

[994] *See supra* note 439. (The Commission has previously stated that similar fees can be shown to be fair and reasonable if they are reasonably related to costs.)

[995] *See supra* note 316 (citing an NYSE proposal to enhance the exclusive SIPs by offering depth of book, odd-lot quotes, and primary auction imbalance information in three new tiers of service, each of which with different levels of data content).

[996] *See supra* Section VI.B.2(c).

[997] *See supra* note 440.

[998] *See infra* Sections VI.C.2(b) and VI.C.2(c).

[999] Supra-competitive profits are profits above what can be sustained in a competitive market.

[1000] *See infra* Section VI.C.2(b).

[1001] *See infra* Section VI.C.2(c).

[1002] *Id.*

[1003] *See infra* Section VI.C.2(e)(ii) (discussing heightened requirements for ''critical SCI systems'' versus standard requirements for ''SCI systems'').

[1004] *See supra* Section IV.B.6.

they currently utilize. This last analysis is critical to understanding the potential for many of the benefits and costs discussed above in Section VI.C.1 and below in Section VI.D.1.

The Commission preliminarily believes that the fees for consolidated market data could be lower than fees that market participants pay for equivalent data today, but recognizes significant uncertainty. The Commission also recognizes uncertainty in the fees that subscribers choosing to receive a subset of consolidated market data would pay under the proposed rule and that these subscribers could pay higher or lower fees than they do today for equivalent data.

(i) Fees for Proposed Consolidated Market Data Content

The Commission first considers the effect of the proposed rule on fees market participants would pay for proposed consolidated market data versus what they currently would have to pay to access the same content of the proposed consolidated market data. The Commission preliminarily believes that fees for proposed consolidated market data could be lower than fees for equivalent data today, but recognizes significant uncertainty about how the effective national market system plan(s) would set the fees for the data content and how SROs would set the fees for connectivity necessary to create proposed consolidated market data as well as how the competing consolidators would price their services. For the purposes of this section, the Commission assumes that the effective national market system plan(s) would set fees for the proposed consolidated market data content that are reasonably related to costs.[1005]

The Commission preliminarily believes that three sets of fees may be affected as a result of the proposed rule: fees for the data content necessary to create proposed consolidated market data, fees for the consolidation and dissemination of proposed consolidated market data, and fees for the connectivity services necessary to receive the components of proposed consolidated market data from the SROs. Regarding the SIP data, the first two fees are currently bundled into a single fee, which covers SROs' data and the exclusive SIPs' operations such as consolidation and dissemination of data. The proposed rule would unbundle these two components and would allow competing consolidators to provide the data consolidation and dissemination services. Under the proposed rule, the fee for data content would be set by the effective national market system plan(s).[1006] The operating committee(s) of the effective national market system plan(s) would propose the data content fees for the SROs' data required to create proposed consolidated market data and would then file the proposed fees with the Commission for consideration pursuant to Rule 608.[1007] Competing consolidators would charge a second fee for their consolidation and dissemination services, which could also include associates costs for data access at exchanges and transmission of data between data centers. The fees for data consolidation and dissemination would be determined by competition among competing consolidators. Finally, SROs currently charge connectivity fees for both exclusive SIP and proprietary data feeds. Under the proposal, SROs could charge connectivity fees to competing consolidators and self-aggregators, which must be consistent with statutory standards.[1008] Competing consolidators could charge connectivity fees to end users, which would be subject to competitive forces.

First, the Commission preliminarily believes that how the proposed rule would affect the fees for the data content used to create proposed consolidated market data is uncertain, primarily because they depend on future action by the effective national market system plan(s), but the Commission preliminarily believes that such fees would likely be lower than today's fees for the equivalent data. Currently, market participants who would like to access content equivalent to the data content of the proposed consolidated market data would need to separately purchase SIP data and additional data elements via proprietary data feeds. Under the proposed rule, market participants would be able to receive substantially similar content from one source.[1009] Further, market participants would pay the data content fees set by the effective national market system plan(s) for NMS stocks, which would be filed with the Commission under Rule 608 and be subject to public comment.[1010] Therefore, the analysis of the potential impact on data content fees depends on, among other things, whether the current fees for the proprietary data content that will be included in the newly defined consolidated market data are fair and reasonable and on how costs are likely to change. As discussed above, the Commission does not believe that the proposal would significantly increase SRO costs specifically for distributing data.[1011] The proposal could, on the other hand, increase the allocation of fixed exchange costs to consolidated market data because the data content would expand.[1012] However, the Commission lacks the necessary information to ascertain those impacts.[1013]

The Commission can deduce, however, that data content fees for the proposed consolidated market content are unlikely to increase. As discussed above,[1014] the Commission understands that SRO proprietary feeds for depth of book data are significantly more expensive than the exclusive SIP feeds. The effective national market system plan(s) for NMS stocks would be unlikely to implement fees for the proposed consolidated market data content that are higher than the current fees for equivalent data unless it is demonstrated that the higher proposed fees are justified under the applicable legal standard.

[1005] *See supra* note 439. (The Commission has previously stated that similar fees can be shown to be fair and reasonable if they are reasonably related to costs.)

[1006] *See supra* note 96 (discussing amendments to the provision regulating NMS plan(s) fee filings).

[1007] *See supra* Section IV.B.4; *supra* note 433.

[1008] Currently, connectivity fees are charged to the market participants that connect to the exchange and not to end users. *See infra* note 1017.

[1009] Currently, fees for SIP data and proprietary data are generally charged based on the number and type of end user of the data. For example, the CTA/CQ Plan Schedule of Charges distinguishes fees by professional and non-professional subscribers and the number of devices. *See* CTA Plan, Schedule of Market Data Charges, *supra* note 851. The Nasdaq UTP Plan, Exhibit 2 provides separate fees for non-professionals and per device fees. *See* Nasdaq UTP Plan, *supra* note 13. Similar user distinctions are made in proprietary data products. *See* Nasdaq, Price List—U.S. Equities, *available at www.nasdaqtrader.com/Trader.aspx?id=DPUSdata#tv* (last accessed Jan. 30, 2020) (showing Nasdaq TotalView usage fees, which provide fees for professional and non-professional subscribers); NYSE Proprietary Market Data Fees (as of Nov. 4, 2019), *available at https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf* (showing the NYSE Integrated Feed fee schedule, which distinguishes between professional and non-professional users).

[1010] Rule 608 of Regulation NMS, 17 CFR 242.608.

[1011] *See supra* Section VI.C.1(b)(iv).

[1012] *See infra* Section VI.C.4(a) for a discussion of the likely effects of the proposal on the revenues exchanges receive for proprietary data.

[1013] In a comment letter, IEX provided data that the SRO markups on proprietary data may be large. In particular, IEX compared its own costs of providing proprietary market data with the fees charged by other exchanges for comparable produces and found markups of 900–1,800 percent. *See* Katsuyama Letter II; Letter to Brent J. Fields, Secretary, Commission, from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC (Feb. 4, 2019) (discussing the ''all-in'' cost to trade concept advocated by other exchanges).

[1014] *See supra* Section VI.B.2(c).

The Commission preliminarily believes that the proposal is likely to reduce data content fees. The Commission expects that unless the Commission approves a filing for data content fees that would set fees at a level that the effective national market system plan(s) has shown is consistent with statutory standards, the fees for the proposed consolidated market data—which is equivalent to the existing exclusive SIP data plus additional proprietary DOB data product elements—would remain at current SIP data fee levels and thus would be lower than the current fees for the equivalent data.[1015] Absent information on data costs, the Commission, at this time, recognizes that such fees could be lower than current exclusive SIP fees, similar to current exclusive SIP fees, greater than current exclusive SIP fees but less than the fees for the current equivalent of proposed consolidated market data, or similar to the current equivalent of proposed consolidated market data. However, the Commission preliminarily believes that such data content fees would be lower than current fees for equivalent data because, between 2010 and 2018, the proprietary data feed portion of the current fees for equivalent data appears to have increased at a rate that seems unlikely that costs have matched.[1016]

Second, the Commission preliminarily believes that data consolidation and dissemination fees for proposed consolidated market data would be lower than consolidation and dissemination fees market participants currently pay to receive equivalent data. Consolidation and dissemination fees that competing consolidators would charge would cover several associated costs, including fixed costs of hardware and software; processing to take in data; processing for consolidation (including compiling the NBBO and protected quotes); distribution of the data; and connectivity fees paid to exchanges to acquire the data for consolidation. The variable costs of the competing consolidators would be minor in comparison because additional data users would have a minimal impact on the costs of competing consolidators. The fixed costs of the competing consolidators could be spread out among its subscribers, including subscribers utilizing other proprietary data services provided by competing consolidators that are not covered by the fees established by the effective national market system plan(s).

To receive data equivalent to proposed consolidated market data today, market participants would have to pay separately for a portion of exclusive SIPs' cost to perform consolidation and dissemination of market data and a fee for consolidation and dissemination of additional data elements of proposed consolidated market data that are available via third-party providers of proprietary market data, who face competitive pressures. As discussed above,[1017] exclusive SIPs are not constrained by competition and thus have lower incentives to reduce their costs. By comparison, the Commission preliminarily expects that the competition among competing consolidators would put downward pricing pressure on these service fees. The Commission recognizes that the stronger the competition among competing consolidators, the harder it would be for any given competing consolidator to increase its consolidation and dissemination fees and make supra-competitive profits from these services.[1018] Further, because having more subscribers could help competing consolidators spread their fixed costs out, any increase in the number of subscribers of current market data aggregators who would become competing consolidators would reduce the service fees of those aggregators in equivalent data. For these reasons, the Commission preliminarily believes that the competition among competing consolidators would lead to lower consolidation and dissemination fees for proposed consolidated market data as compared to these fees for equivalent data today.

Third, the Commission preliminarily believes that connectivity fees charged by competing consolidators for proposed consolidated market data would also be lower than connectivity fees market participants would currently have to pay to receive equivalent data. To receive data equivalent to proposed consolidated market data today, market participants currently have to pay separately a connectivity fee to the exchanges to access SIP data and a connectivity fee to the exchanges or market data aggregators to access additional data elements of proposed consolidated market data that are not part of SIP data. Under the proposed rule, the Commission expects that market participants would pay only one connectivity fee for proposed consolidated market data, set by competing consolidators, and this connectivity fee would be subject to competition among competing consolidators. By contrast, current exchange connectivity fees are not as competitive because an exchange has sole control over its own connectivity charge for its proprietary market data. Therefore, the Commission preliminarily believes that connectivity fees that would be charged by competing consolidators for proposed consolidated market data would be lower than the connectivity fees for equivalent data today.

The Commission recognizes that SROs would charge connectivity fees to competing consolidators and self-aggregators. The exchanges could continue to set connectivity fees for data feeds as part of their SRO fee schedules and these fees must continue to meet statutory standards.[1019] The exchanges' connectivity fees are not currently based on the number of end users, and therefore the Commission preliminarily believes that the connectivity fees for proposed consolidated market data would not be directly passed through to the end users. SRO connectivity fees would be fixed costs incurred by self-aggregators and by competing consolidators, a cost the latter could spread out among their end users as a part of the consolidation and dissemination fees.

Additionally, because the total fees for the equivalent of proposed consolidated market data are likely to decline as a result of the proposal, some market participants may choose to purchase more consolidated market data content than they purchase today, such as purchasing the expanded core data. The likelihood of this outcome would depend on the difference between total fees for proposed consolidated market data and current total fees for equivalent data content. The economic effect of more market participants purchasing expanded core data is discussed above in Section VI.C.1(b).

(ii) Fees for the Content of Current SIP Data

The Commission also considers the effect of the proposed rule on fees market participants currently pay for SIP data content versus what they would pay for equivalent content under the decentralized consolidation model.

[1015] *See supra* note 96 (noting the Commission's proposal to rescind the provision of Rule 608 that allows a proposed amendment to an effective national market system plan(s) to become effective upon filing if the proposed amendment establishes or changes a fee or other charge).

[1016] *See supra* Section VI.B.2(c).

[1017] *See supra* Section VI.A.2.

[1018] *See supra* Section VI.C.2(c).

[1019] For example, under Section 6(b)(4) of the Exchange Act, the rules of an exchange must ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.'' 15 U.S.C. 78f(b)(4).

The Commission recognizes that a significant proportion of market participants currently purchase only SIP data and/or the unconsolidated equivalent of SIP data.[1020] Under the proposed rule and conditional on fees for proposed consolidated market data, while some of these market participants would choose to purchase more data than they purchase today, other market participants would continue to purchase content equivalent to current SIP data (*e.g.,* NBBO and TOB). The Commission preliminarily believes that data fees paid for equivalent data content could be higher than current SIP data fees or could be lower than current SIP data fees. Whether the fees are higher or lower depends on several factors: the data content fee structure proposed by the effective national market system plan(s) for NMS stocks, how competing consolidators allocate their costs of processing (*i.e.,* receiving, consolidating, and disseminating) consolidated market data, and any connectivity fees charged by competing consolidators for consolidated market data.

The Commission preliminarily believes that the data content fee structure proposed by the effective national market system plan(s) for NMS stocks under the decentralized consolidation model is an important factor in determining whether total data fees (*i.e.,* the sum of data content fees, consolidation and dissemination fees, and connectivity fees) for the equivalent of current SIP data could be higher or lower under the proposed rule.[1021] The Commission recognizes that because of the expanded scope of proposed consolidated market data relative to the current SIP data, the data content fee market participants would pay for data necessary to create proposed consolidated market data might be higher than the portion of current SIP data fees that accounts for the data content. Until the effective national market system plan(s) propose fees for the data content necessary to create proposed consolidated market data, the Commission is unable to determine whether this fee structure would charge lower fees for end users who wish to receive subsets of consolidated market data from competing consolidators. In other words, the Commission is unable to determine whether the effective national market system plan(s) for NMS stocks would propose a fee structure reflecting different tiers of data content for the proposed consolidated market data. Without such a structure, all subscribers to consolidated market data would pay the same data content fee regardless of whether they wish to receive all or a subset of consolidated market data. As a result, the proposal could increase the content fees for the equivalent of SIP data. This potential outcome is highly dependent on the effective national market system data plan(s) and fee proposals.[1022]

The fees for data consolidation and dissemination depend on how competing consolidators allocate fixed costs among subscribers receiving different subsets of data. As discussed above,[1023] the Commission expects competing consolidators to offer a menu of products and services, regardless of the data structure of the effective national market system plan(s). Competing consolidators could elect to charge lower consolidation and dissemination fees to subscribers receiving subsets of data compared to fees charged to subscribers receiving all consolidated market data. In fact, the Commission preliminarily believes that competitive pressure could result in such a fee structure. As a result, the data consolidation and dissemination component of total fees charged to those who purchase content equivalent to SIP data could be lower than this component of current SIP data fees today.

The fees for connectivity services paid by end users are likely to decline for some users but could increase for others. Currently, some SIP data users connect to the exchanges that are the administrators of exclusive SIPs and pay connectivity fees to access the SIP data. These connectivity fees are paid directly to the exchanges and do not go to the exclusive SIPs. There are also SIP data users that do not connect to the exchanges and thus do not pay SRO connectivity fees for SIP data, but may pay fees to other market data service providers. Under the proposed rule, both types of current SIP data subscribers may be charged a connectivity fee by competing consolidators when they subscribe to proposed consolidated market data. The Commission acknowledges that there is uncertainty over whether the competing consolidator connectivity fees would be larger or smaller than what some of the SIP data users currently pay in connectivity fees. The overall connectivity fees under the proposed rule may be larger if competing consolidators are not constrained by competition such that they can charge higher connectivity fees without concern for subscribers' scope of content. On the other hand, as discussed above [1024] and given the potential connectivity options available, the Commission preliminarily believes competing consolidators will be under competitive pressure, and as such, they may offer a range of connectivity fees, including based on market participants' scope of data content and speed choice. In that case, SIP data subscribers who currently pay connectivity fees to the exchanges may see their connectivity fees decline.

(c) Benefits of the Decentralized Consolidation Model Pertaining to Competing Consolidators

As discussed above,[1025] currently SIP data is collected, calculated, and disseminated to market participants through a centralized consolidation model with an exclusive SIP for each NMS stock. Even though current exclusive SIPs are selected through a bidding process,[1026] the Commission preliminarily believes that a competitive marketplace is more capable of producing the benefits that come from competitive forces than the process of soliciting bids for exclusive contracts.[1027] In particular, the Commission preliminarily believes that the decentralized consolidation model would have three potential benefits for market participants. First, the Commission believes that the decentralized consolidation model offers the potential for more gains in efficiency in the delivery of consolidated market data, which may include cost savings that could be passed on to market participants, to emerge over time. Second, the Commission believes the model would enable consolidated market data delivery to continue to keep up with market data communication innovations in the future, in a way that the current centralized consolidation model has not. Third, the Commission preliminarily expects the new model would significantly reduce the various types of content and latency differentials that currently exist between SIP data and proprietary data products.[1028]

The Commission preliminarily believes that introducing competition into the provision of consolidated

[1020] *See supra* Section VI.B.2(a).

[1021] *See supra* Section VI.B.2(c).

[1022] The Commission has proposed an order to modernize the governance of the data plans. *See supra* note 8.

[1023] *See supra* Section VI.C.2(a).

[1024] *See supra* Section VI.C.2(b)(i).

[1025] *See supra* Sections IV.A, VI.B.2(b).

[1026] *See supra* Section VI.B.1.

[1027] *See supra* Section VI.A.2; *infra* Section VI.D.2.

[1028] *See supra* Section VI.B.2(b).

market data and dissemination services would present more incentives for reducing costs and lowering prices for those services,[1029] and innovating on product offerings more tailored to the needs of the consumers. It is therefore the Commission's preliminary expectation that the decentralized consolidation model would result in a meaningful increase in investments intended to lower costs and/or improve quality in the provision of consolidated market data. This represents an economic benefit for the industry, some of which would be kept by competing consolidators as profit, and some of which would be received by market participants in the form of lower fees and/or improved quality for competing consolidator services.

As discussed above,[1030] some market participants may benefit as a result of the introduction of the decentralized consolidation model because of the lower price for proposed consolidated market data relative to today's price for consolidated market data holding data content constant. These market participants are likely interested in expanded consolidated market data, and currently would have to pay to obtain additional data elements via proprietary data feeds. Therefore, these market participants could pay a lower price for expanded consolidated market data under the decentralized consolidation model.

The Commission preliminarily believes that the decentralized consolidation model would provide a benefit to market participants by increasing the amount of innovation in the consolidation and dissemination of consolidated market data. This is a benefit because it represents an improvement over the current system for dissemination of SIP data, in which the lack of competitors reduces the incentives of the exchanges that govern SIPs to innovate.[1031] As mentioned above, the Commission preliminarily believes that the current system of disseminating SIP data through exclusive SIPs, which are managed by Equity Data Plans' operating committees, is not well suited to keep up with the pace of innovation in data processing and communication in the market.[1032] The decentralized consolidation model would place the task of determining the method of consolidation and dissemination to free market forces, which the Commission preliminarily believes would make it easier to innovate rapidly and maintain competitive parity with other market participants. The end result of this improved efficiency in investment decisions by consolidators would be to improve the quality and reliability of market data consolidation and dissemination services, which would result in market participants having better data to make trading decisions.[1033] The Commission preliminarily believes this would lead to better trading decisions, lower execution costs, and would help reduce information asymmetries between market participants that currently solely rely on SIP data and market participants who purchase the exchanges' proprietary data products. The Commission preliminarily believes that the magnitude of this benefit depends on the assumption that there would be a sufficient number of competing consolidators entering the market.

The Commission preliminarily believes that another benefit of the decentralized consolidation model would be to substantially reduce the latency differential between proposed consolidated market data and proprietary data. This belief is based upon the Commission's assumption that the business practices of current market data aggregators, some of which will likely become competing consolidators, would serve as a model for how competing consolidators would operate under the decentralized consolidation model.[1034] Current market data aggregators have achieved connectivity, transmission, consolidation, and distribution speeds that are meaningfully faster than SIP data even as they process larger amounts of data than SIP data.[1035] Therefore, the Commission believes that competition among competing consolidators would keep market data consolidation and distribution feeds close to the speeds achieved in the private market currently.

The Commission preliminarily believes that all forms of latency discussed previously—geographic, consolidation, and transmission latency [1036]—have the potential to be the source of these reductions in the latency differential. The Commission understands that the existing market data aggregator business does not rely on the single-instance consolidator model but instead produces a separate consolidated feed at each data center. This has the potential to substantially reduce geographic latency for data centers that are not co-located with one of the existing exclusive SIPs because it means new information at a data center can be used immediately at that data center instead of being returned to the processing center first. The Commission therefore expects that the decentralized consolidation model would serve to substantially reduce geographic latency in the same way for market participants. For instance, the existing market data aggregators already have infrastructure in place to consolidate market data in the described way. And if the existing exclusive SIPs become competing consolidators, they would also have to produce separate consolidated feeds at each data center to be able to compete with other competing consolidators. Therefore, the Commission preliminarily believes that the geographic latency reduction in the decentralized consolidation model can be achieved even if one existing market data aggregator enters the competing consolidator business. Therefore, the benefit of the decentralized consolidation model with regard to geographic latency would not rely heavily on the assumption that a large number of consolidators would enter the market.[1037] Importantly, as discussed above,[1038] geographic latency is the biggest cause of latency differentials between current SIP data distributed by exclusive SIPs and current proprietary data feeds.

Also, the Commission understands that many current market data aggregators rely on wireless communications to receive data from various exchange data centers, using fiber connections as a backup in case of bad weather. To the extent that wireless communications are faster than current transmission methods for SIP data, the Commission expects the decentralized consolidation model to reduce transmission latency as well. In addition, to the extent that existing market aggregators have developed faster consolidation methods, the Commission expects that the decentralized consolidation model would also reduce consolidation latency. The Commission preliminarily believes that the effect of the decentralized consolidation model on the consolidation and transmission

[1029] *See infra* Section VI.D.2.

[1030] *See supra* Section VI.C.2(b).

[1031] *See supra* Section VI.A.2.

[1032] *Id.*

[1033] *See infra* Section VI.D.1.

[1034] *See supra* Section VI.C.2(a).

[1035] The Commission preliminarily believes that if the existing exclusive SIPs choose to become competing consolidators in the decentralized consolidation model, the competition with other competing consolidators will incentivize them to improve their connectivity, transmission, consolidation, and distribution speeds to the levels of other competing consolidators.

[1036] *See supra* Section VI.B.2(b).

[1037] *See supra* Section VI.C.2(a).

[1038] *See supra* Section VI.B.2(b).

latencies depends on robust competition among competing consolidators going forward. The Commission preliminarily believes that to the extent that the benefits of faster access to market data come from the ability to engage in more timely participation in the provision of liquidity, this effect represents an economic benefit to the equity market generally because it would provide more fair and equal access to market data and would reduce information asymmetries among market participants. In particular, to the extent that the existing advantages of having access to fast proprietary data feeds are derived from trading strategies exploiting differentials in the speed of access to market data (*i.e.,* exploiting traders in the market who currently rely solely on slower SIP data), this benefit would represent a transfer from current users of faster proprietary data to the users of proposed consolidated market data in the decentralized consolidation model that would now also have access to faster data.[1039]

In order for both economic benefits and transfers to be realized, at least some market participants that are new users of fast and more content-rich consolidated market data would need to possess the technological capability to take advantage of the speed improvements the decentralized consolidation model is likely to provide. It is the Commission's preliminary understanding that such technological capabilities are expensive to acquire, and this fact would reduce the amount of benefit and the degree to which individual market participants can profit (through the transfers mentioned above) from the decrease in data latency.

If even a small delay remains between the typical competing consolidator's consolidated market data feed and proprietary data feeds, then the benefits of increased consolidated market data delivery speed described above are likely to be smaller. This belief is based on the Commission's preliminary understanding that speed gains at these timescales only matter insofar as to help a market participant react to new information faster than other market participants.[1040]

Additionally, the Commission notes two other potential benefits of the proposed amendments. First, market participants could potentially save on the cost of consolidated market data because they will only need to subscribe to one competing consolidator instead of two exclusive SIPs (*i.e.,* Nasdaq UTP and CTA/CTQ). To the extent market participants can subscribe to one competing consolidator, they could save money by not having to pay the costs of processing consolidated market data to two different providers. Additionally, market participants may also save on their infrastructure costs if they have the ability to customize their data purchases and receive, for example, narrower data content than proposed consolidated market data. Market participants may achieve this if competing consolidators offer tiered levels of service with different data contents and different service fees based on the needs of specific types of investors similar to what one SIP proposed recently.[1041]

Second, expanding Regulation SCI to include competing consolidators would help ensure that competing consolidators' systems involved in the collection, consolidation, and dissemination of proposed consolidated market data are able to maintain their operational capability, including the ability to maintain effective operations, minimize or eliminate the effect of performance degradations, and have sufficient backup and recovery capabilities. The Commission preliminarily believes that competing consolidators being subject to the Regulation SCI requirements would lead to, among other things, fewer interruptions in the data delivery process and, thus, may result in better trading decisions.[1042]

(d) Costs of the Decentralized Consolidation Model Pertaining to Competing Consolidators

The Commission preliminarily believes that the proposed amendments that introduce a decentralized consolidation model are likely to have both direct and indirect costs on potential competing consolidators, SROs, existing exclusive SIPs, and market participants, as detailed below. As explained below, the Commission preliminarily estimates that the direct costs to each potential competing consolidator would be between around $5.12 MM and $5.13 MM in ongoing annual costs, and total one-time costs of up to between approximately $897,000 and $2.40 MM, depending on entity type.[1043] Further, the Commission preliminarily estimates that costs to each SRO from the proposed amendments regarding the decentralized consolidation model include up to around $246,000 in the direct one-time costs, and around $128,000 in the ongoing annual costs. The Commission expects, however, that the proposed amendments that introduce a decentralized consolidation model would have additional indirect costs. Some of these direct and indirect costs are likely to be passed on to investors.

As discussed above,[1044] the Commission preliminarily believes that five types of entities may register to become competing consolidators and would have to build systems, or modify existing systems, that comply with the proposed rules: (1) Market data aggregation firms, (2) broker-dealers that currently aggregate market data for internal uses, (3) the existing exclusive SIPs, (4) new entrants, and (5) SROs. The Commission preliminarily estimates that all direct ongoing annual costs and some one-time costs would be common among all competing consolidators and that some one-time costs would vary depending on entity type.

For purposes of the PRA,[1045] the Commission preliminarily estimates that direct ongoing costs for each competing consolidator, except for SROs, would be $5,126,167 and consist of the following costs: Costs of $5,744 to amend Form CC prior to the implementation of material changes to pricing, connectivity, or products as well as to correct inaccurate or incomplete information; [1046] costs of $25 to obtain digital IDs for the purposes of signing the Form CC annually,[1047] costs of around $5.07 MM associated with operating and maintaining a competing consolidator system; [1048] costs of $120 to ensure that it has posted the correct direct URL hyperlink to the Commission's website on its own website; [1049] costs of $4,360 of recordkeeping; [1050] and costs of

[1039] *See also* Don Bollerman, A NYSE Speed Bump You Weren't Aware Of, IEX *available at https://iextrading.com/about/press/op-ed/* (last accessed Jan. 8, 2020) (discussing the effect of speed differentials on trading).

[1040] *See supra* Section VI.B.2(b).

[1041] *See supra* Section VI.C.2(b); *supra* note 267.

[1042] *See infra* Section VI.C.2(e)(i).

[1043] These costs do not include the costs of compliance with expanded Regulation SCI, which are discussed below. *See infra* Section VI.C.2(e)(ii).

[1044] *See supra* Sections V.D.2, VI.C.2(a).

[1045] Direct costs cited in this section are quantified from estimates in the PRA. *See supra* Section V.

[1046] *See supra* Section V.D.1(b); *supra* note 671.

[1047] *See supra* Section V.D.1(b).

[1048] These costs are composed of labor costs of $176,250, external costs of $123,725 to operate and maintain systems to comply with Rules 614(d)(1)–(d)(4), external costs of $168,000 to purchase market data from the SROs, and an additional annual ongoing external cost of $4,602,720 to co-locate itself at four exchange data centers. *See supra* Section V.D.2(f).

[1049] *See supra* Section V.D.2(h); *supra* note 724.

[1050] *See supra* Section V.D.3(b).

$45,222 to prepare and make publicly available a monthly report.[1051]

The Commission preliminarily estimates that direct ongoing costs for each SRO as a competing consolidator would be $5,120,398 and would consist of the same costs as for all other competing consolidators excluding the costs of $5,744 to amend Form CC prior to the implementation of material changes to pricing, connectivity, or products as well as to correct inaccurate or incomplete information, and the costs of $25 to obtain digital IDs for the purposes of signing the Form CC.[1052]

The Commission preliminarily estimates that direct one-time costs that are common across all competing consolidators would be $89,348 and consist of the following costs: Costs of $120.50 to publicly post the Commission's direct URL hyperlink to its website upon filing of the initial Form CC; [1053] costs of $8,720 to keep and preserve at least one copy of all documents made or received by it in the course of its business and in the conduct of its business; [1054] and costs of $80,507 to produce the monthly reports.[1055]

The Commission preliminarily estimates that the total direct costs to each market data aggregation firm or each broker-dealer that currently aggregate market data for internal uses that would decide to register as a competing consolidator would include $5,126,167 in ongoing annual costs, as discussed above, and total one-time costs of $896,542. The one-time costs are composed of costs of $93,540 to complete the initial Form CC; [1056] costs of $50 to obtain digital IDs for the purposes of signing the initial Form CC; [1057] costs of $5,604 to file two amendments to Form CC; [1058] labor costs of $293,750; [1059] external costs of $206,250 to modify its systems to comply with Rules 614(d)(1)–(d)(4), external costs of $14,000 to purchase market data from the SROs, an additional initial external cost of $194,000 to co-locate itself at four exchange data centers; [1060] as well as $89,348 in costs that are common to all competing consolidators, as described above.

The Commission preliminarily estimates that the total direct costs to each existing SIP that would decide to register as a competing consolidator would include $5,126,167 in ongoing annual costs, as discussed above, and total one-time costs of $1,396,542. The one-time costs per existing SIP are composed of costs of $93,540 to complete the initial Form CC; [1061] costs of $50 to obtain digital IDs for the purposes of signing the initial Form CC; [1062] costs of $5,604 to file two amendments to Form CC; [1063] labor costs of $587,500; [1064] external costs of $412,500 to modify its systems to comply with Rules 614(d)(1)–(d)(4), external costs of $14,000 to purchase market data from the SROs, an additional initial external cost of $194,000 to co-locate itself at four exchange data centers; [1065] as well as $89,348 in costs that are common to all competing consolidators, as described above.

The Commission preliminarily estimates that the total direct costs to each new entrant in the competing consolidator space would include $5,126,167 in ongoing annual costs, as discussed above, and total one-time costs of $2,396,542. The one-time costs are composed of costs of $93,540 to complete the initial Form CC; [1066] costs of $50 to obtain digital IDs for the purposes of signing the initial Form CC; [1067] costs of $5,604 to file two amendments to Form CC; [1068] labor costs of $1.175 MM,[1069] external costs of $825,000 to build its systems to comply with Rules 614(d)(1)–(d)(4), external costs of $14,000 to purchase market data from the SROs, an additional initial external cost of $194,000 to co-locate itself at four exchange data centers; [1070] as well as $89,348 in costs that are common to all competing consolidators, as described above.

The Commission preliminarily estimates that the total direct costs to each SRO that would decide to register as a competing consolidator would include $5,120,398 in ongoing annual costs, as discussed above, and total one-time costs of $2,297,348. The one-time costs are composed of labor costs of $1.18 MM; [1071] external costs of $825,000 to build systems to comply with Rules 614(d)(1)–(d)(4), external costs of $14,000 to purchase market data from the SROs, an additional initial external cost of $194,000 to co-locate itself at four exchange data centers,[1072] as well as $89,348 in costs that are common to all competing consolidators, as described above.

Separately, the Commission preliminarily estimates that the total direct costs to each SRO would include $128,064 in ongoing annual costs, and total one-time costs of $246,005. The ongoing annual costs are composed of costs to collect the information necessary to generate proposed consolidated market data required by proposed Rule 603(b).[1073] The total one-time direct costs include up to $175,140 to prepare an amendment to the effective national market system plan for NMS stocks,[1074] and labor costs of $70,865 of legal, compliance, information technology, and business operations personnel to collect the information necessary to generate consolidated market data as required by proposed Rule 603(b).[1075]

The Commission preliminarily believes that the proposed amendments that introduce a decentralized consolidation model are likely to have indirect costs to existing exclusive SIPs, some market participants, and investors. The Commission preliminarily believes that the proposed amendments may impose a substantial cost for existing exclusive SIPs in terms of loss of business because exclusive SIPs would no longer be exclusive consolidators and disseminators of consolidated market data, and at least one of the exclusive SIPs—Nasdaq UTP—would no longer be paid out of the NMS plan for its processing costs.[1076] The Commission preliminarily believes that this loss of business would be mitigated by the opportunity for the exclusive SIPs to become competing consolidators. If exclusive SIPs decide

[1051] *See supra* Section V.D.4(b); *supra* note 732.

[1052] These costs are excluded because SROs are not required to file Form CC. *See supra* Section V.D.1(a).

[1053] *See supra* Section V.D.2(g); *supra* note 721.

[1054] *See supra* Section V.D.3(a); *supra* note 726.

[1055] *See supra* Section V.D.4(a); *supra* note 727.

[1056] *See supra* Section V.D.1(a); *supra* note 664.

[1057] *See supra* Section V.D.1(a).

[1058] *Id.*

[1059] *See supra* Sections V.D.2(a), V.D.2(b); *supra* notes 676, 683.

[1060] *See supra* Sections V.D.2(a), V.D.2(b).

[1061] *See supra* Section V.D.1(a); *supra* note 664.

[1062] *See supra* Section V.D.1(a).

[1063] *Id.*

[1064] *See supra* Section V.D.2(c); *supra* note 691.

[1065] *See supra* Section V.D.2(c).

[1066] *See supra* Section V.D.1(a); *supra* note 664.

[1067] *See supra* Section V.D.1(a).

[1068] *Id.*

[1069] *See supra* Sections V.D.2(d), V.D.2(e); *supra* notes 698, 705.

[1070] *See supra* Sections V.D.2(d), V.D.2(e).

[1071] *See supra* Sections V.D.2(d), V.D.2(e); *supra* notes 698, 705.

[1072] *See supra* Sections V.D.2(d), V.D.2(e).

[1073] *See supra* Section V.D.2(f).

[1074] Half of these costs, or $87,570, would be incurred to comply with the timestamps required by the proposed rule, including a review and any applicable change of the respondent's technical systems and rules. A quarter of these costs, or $43,785, would be incurred to compose the form of annual report on competing consolidator performance. Additionally, $8,340 would be incurred to compile and confirm the primary listing exchange for each NMS stock. *See supra* Section V.D.5; *supra* note 734.

[1075] *See supra* Section V.D.6; *supra* note 737.

[1076] This does not apply to CTA/CQ Plan that, as discussed above, is paid differently. *See supra* Section VI.B.2(c).

to become competing consolidators, they would compete for business with each other and with other competing consolidators. This competition may lead to revenue that is lower than their current revenue. This potential decrease in revenue would represent a transfer of resources to other competing consolidators and to market participants potentially increasing social welfare. On the other hand, the exclusive SIPs have the benefit of having been in this business for a long time. The exclusive SIPs have significant connectivity to market participants and vendors and can leverage their existing customer base and established relationships with vendors and purchasers at firms. If the exclusive SIPs decide to become competing consolidators, their experience with this market may give them a competitive advantage and help mitigate their potential revenue losses.

Some market participants may also incur indirect costs as a result of the introduction of the decentralized consolidation model. First, as discussed above,[1077] the price that some market participants would pay for proposed consolidated market data may be higher than today's price for consolidated market data, holding data content constant. These market participants are likely interested in the current scope of SIP data, and, therefore, may have to pay a higher price for expanded data content that they are not interested in.

Second, the Commission preliminarily believes that there would be an implementation cost for market participants to switch from using current exclusive SIP providers or proprietary data feeds to using competing consolidators. This cost is likely to vary among types of market participants; for instance, existing purchasers of proprietary DOB data products are likely to assume limited additional costs while new customers of proposed consolidated market data from competing consolidators would need, for example, to establish new connectivity and integrate a larger set of data into their operations. This implementation cost would include administrative costs for subscribing to a new provider of the data, as well as any infrastructure investments that may be needed to handle the data as delivered by the competing consolidator. The Commission is uncertain about the size of these costs but notes that these costs and the magnitude of their effect may vary by market participant.

Additionally, one of the current exclusive SIPs, SIAC, processes and disseminates the academic TAQ dataset. If SIAC discontinues its SIP business, there may be interruptions to the availability of this data, which would create a cost for both the academic community and investors that otherwise benefit from regulators' use of this dataset. Other data vendors also provide comprehensive historical data products that may become more readily available from competing consolidators.[1078] The Commission is unable to quantify the incremental social welfare cost of the interruption of availability of the TAQ dataset and invites comments on this issue.

Finally, the Commission preliminarily believes that the decentralized consolidation model may result in multiple NBBO quotes observed by different market participants due to different aggregation methods used by competing consolidators. As discussed above,[1079] currently market participants may already observe multiple NBBO quotes. Therefore, the Commission preliminarily believes that the decentralized consolidation model would result in no meaningful difference in practice with respect to the existence of multiple NBBOs.

The proposed amendments would impose a cost for SROs from losing SIP fees. However, the Commission preliminarily believes that this loss of fees would be offset by the data content and access fees paid to SROs by competing consolidators.

(e) Economic Effects of Competing Consolidators Being Subject to Regulation Systems Compliance and Integrity

The proposed rule amends Rule 1000 of Regulation SCI by expanding the definition of ''SCI entities'' to include ''competing consolidators.'' [1080] Under the proposed rule, competing consolidators would be subject to the standard requirements of Regulation SCI (*i.e.,* requirements for SCI systems that are not critical SCI systems).[1081] The Commission preliminarily believes that expanding Regulation SCI to include competing consolidators would help prevent market disruptions due to one or more competing consolidators' systems issues and reduce the severity and duration of any effects that may result if a systems issue were to occur for a competing consolidator. But expanding Regulation SCI to include competing consolidators would also impose costs on various entities, most significantly on competing consolidators. Competing consolidators would incur a number of direct and indirect compliance costs, such as initial and on-going paperwork burdens as well as competing consolidators' potential switching costs to find vendors that can satisfy the Regulation SCI requirements. Additionally, Regulation SCI would impose some indirect costs on other market participants because of their specific business relationships with competing consolidators. For example, third-party vendors employed by competing consolidators to provide services used in their SCI systems would incur Regulation SCI compliance costs similar to those incurred by competing consolidators.

(i) Benefits To Expanding Regulation SCI To Include Competing Consolidators

Currently, the exclusive SIPs are SCI entities and the benefits discussed in Regulation SCI already apply to them and to market participants.[1082] Under the proposed amendments, competing consolidators would also be considered SCI entities and the benefits of Regulation SCI would apply to them and would continue to apply to market participants, *i.e.,* maintain the status quo, if the exclusive SIPs cease operating as exclusive plan processors. This section discusses the benefits that would apply to competing consolidators and would continue to apply to market participants from adding competing consolidators to the list of SCI entities.[1083]

The Commission preliminarily believes that at least three benefits would continue to apply by expanding Regulation SCI to include competing consolidators.[1084] First, imposing the requirements of Regulation SCI on competing consolidators would help

[1077] *See supra* Section VI.C.2(b).

[1078] *See, e.g.,* MayStreet, Market Data, *available at http://maystreet.com/products/market-data/* (last accessed Jan. 2, 2020).

[1079] *See supra* Section VI.B.2(b).

[1080] *See supra* Section IV.B.2(f) and note 557 and accompanying text.

[1081] *See supra* Section IV.B.2(f) and note 563 and accompanying text.

[1082] *See* Regulation SCI Adopting Release, *supra* note 28, at 72404.

[1083] More specifically, the benefits discussed in this section are not measuring a change from the baseline but are discussing the benefits that would continue to apply from including competing consolidators in the list of SCI entities.

[1084] As discussed in detail above, the Commission preliminarily believes that a number of entities who would become competing consolidators are already subject to Regulation SCI. The Commission preliminarily believes that many of the benefits described below would not apply to these entities, because they already have systems that meet the requirements for Regulation SCI. Instead, the Commission preliminarily believes that many of the benefits from extending Regulation SCI to include competing consolidators would come from new entities who become competing consolidators who are not currently subject to Regulation SCI. *See supra* Section V.G.

prevent market disruptions due to one or more competing consolidators' systems issues. Second, it would help reduce the severity and duration of any effects that may result if a systems issue were to occur for one of these competing consolidators, which could also help prevent potential catastrophic events that might start out as a minor systems problem but then quickly spread across the national market system, potentially causing damage to market participants, including investors. Third, expanding the Regulation SCI framework would help ensure more effective Commission oversight of competing consolidators' systems.

The Commission preliminarily believes that adding competing consolidators to the list of SCI entities would help prevent market disruptions by strengthening the infrastructure and improving the resiliency of the systems of new competing consolidators who are not currently SCI entities. The proposed amendments to Regulation SCI would help new competing consolidators who are not currently SCI entities establish robust systems that are less likely to experience a system disruption by requiring these competing consolidators to establish, maintain and enforce written policies and procedures reasonably designed to ensure that their SCI systems have levels of capacity, integrity, resiliency, availability, and security, adequate to maintain the SCI entity's operational capability and promote the maintenance of fair and orderly markets.[1085] The Commission preliminarily believes that some potential new competing consolidators may already have policies and procedures in place to maintain and test critical systems. However, the Commission preliminarily believes that the requirements of Regulation SCI would strengthen these policies and procedures, which would help improve the robustness of critical systems.

The Commission preliminarily believes that complying with the provisions of Regulation SCI would help reduce the severity and duration of any effects that may result if a systems issue were to occur for one of the new competing consolidators who are not currently SCI entities. For example, Rule 1002(a), which requires an SCI entity to take corrective action if an SCI event occurs, could reduce the length of systems disruptions, systems compliance issues, and systems intrusions, and thus reduce the negative effects of those interruptions on the competing consolidator and market participants. Additionally, each SCI entity must establish, maintain and enforce business continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption. These plans would help competing consolidators restore their systems more quickly in the event of a disruption.

The Commission also preliminarily believes that the requirement for competing consolidators to establish procedures to disseminate information about SCI events to responsible SCI personnel, competing consolidator subscribers, and the Commission would help reduce the duration and severity of any system distributions that do occur for one of the new competing consolidators who are not currently SCI entities. The procedures would help these competing consolidators quickly provide the affected parties with critical information in the event that it experiences a system disruption. This could allow the affected parties to respond more quickly and more appropriately to the incident, which could help shorten the duration and reduce the effects of a system event. This could also potentially help prevent an event that might start out as a minor systems issue from becoming a catastrophic problem that quickly spreads across the national market system, potentially causing damage to market participants, including investors.

Additionally, the Commission believes that the requirement for a competing consolidator to conduct testing of its business continuity and disaster recovery plans with its designated participants and other industry SCI entities would help detect and improve the coordination of responses to system issues that could affect multiple market participants in the NMS stock market. This testing should help prevent these system disruptions from occurring and help reduce the severity of their effects, if they do occur.

The Commission preliminarily believes expanding Regulation SCI to include competing consolidators would help ensure more effective Commission oversight of new competing consolidators who are not currently SCI entities. As SCI entities, these competing consolidators would have to immediately notify the Commission upon the occurrence of an SCI event (unless de minimis) and, each quarter, would have to inform the Commission of any planned material changes to its SCI systems and the security of indirect SCI systems, as well as any SCI events that had a de minimis impact on its operations or on market participants. Each year these competing consolidators would also have to provide the Commission with an SCI review of their compliance with Regulation SCI. This information would help ensure more effective Commission oversight by enhancing the Commission's review of these competing consolidators and helping make the Commission aware of potential areas of weakness in the competing consolidator's systems that may pose risk to the entity or the market as a whole, as well as areas of non-compliance with Regulation SCI.

Additionally, the Commission preliminarily believes that the exclusive SIPs could realize an incremental benefit relative to the baseline from lower SCI-related costs. Because the Commission assumes that enough competing consolidators would enter the market to provide for multiple viable sources of consolidated market data,[1086] the Commission preliminarily believes that if the exclusive SIPs become consolidators then they would be considered SCI entities subject to the standard obligations of Regulation SCI, rather than subject to the additional costs associated with being subject to the heightened requirements applicable to ''critical SCI systems.''

(ii) Costs of Expanding Regulation SCI To Include Competing Consolidators

Competing consolidators would incur both paperwork and non-paperwork related direct and indirect compliance costs as SCI entities. Because Regulation SCI imposes some indirect requirements on other market participants interacting with SCI entities (*e.g.,* vendors providing SCI systems to SCI entities), those market participants would also incur indirect costs from competing consolidators being defined as SCI entities.

The Commission preliminarily believes that the 2018 estimates of initial paperwork burdens for new SCI entities and ongoing paperwork burdens for all SCI entities under Regulation SCI are largely applicable to potential entrants into the competing consolidator business.[1087] The 2018 PRA Extension includes estimates distinguishing between new versus existing SCI entities. The Commission preliminarily believes that, using the same new versus existing SCI entity framework, the 12 estimated entrants into the competing

[1085] *See supra* Section IV.B.2(f).

[1086] *See supra* Section VI.C.2(a) for a discussion of this assumption.

[1087] *See supra* note 740.

consolidator business could be divided into three groups: Entrants that are existing SCI entities with experience in the consolidated market data business (*e.g.,* exclusive SIPs or exchanges or entities affiliated with an exchange that currently operate an exclusive SIP); entrants that are existing SCI entities but with no experience in the consolidated market data business and needing to performing a new function with new SCI systems (*e.g.,* a national securities association or national securities exchanges that do not currently operate an exclusive SIP); and finally, entrants that are entirely new SCI entities that are not currently subject to Regulation SCI (*e.g.,* third-party aggregators that are not currently subject to Regulation SCI). As discussed above,[1088] the Commission preliminarily believes that the existing SCI entities in the first category would not have any initial burden, whereas the existing SCI entities in the second category would incur approximately 50% of the Commission's initial burden estimates for an entirely new SCI entity. Further, the 2018 ongoing burden estimates for existing SCI entities in both of these categories would continue to be applicable. Similarly, the Commission preliminarily believes that new SCI entities in the third category would have the same estimated initial paperwork burdens as those estimated for new SCI entities and the same ongoing paperwork burdens as all other SCI entities.

As SCI entities, competing consolidators would also incur non-paperwork related direct compliance costs. In 2014, the Regulation SCI adopting release estimated that an SCI entity would incur an initial cost of between approximately $320,000 and $2.4 million.[1089] Additionally, an SCI entity would incur an annual ongoing cost of between approximately $213,600 and $1.6 million.[1090] The Commission preliminarily believes that similar to the paperwork burden estimates, these non-paperwork related costs are also largely applicable to competing consolidators. But the Commission is uncertain about the actual level of costs competing consolidators would incur, because these costs could differ based on the type of potential entrant into the competing consolidator business. The Commission preliminarily believes that there are two reasons why competing consolidators' costs are likely to be on the lower end of these cost estimates.

First, these cost estimates include costs of having part of an SCI entity's system be a ''critical SCI system,'' and therefore be subject to certain heightened resilience and information dissemination provisions of Regulation SCI. For instance, as discussed above,[1091] the existing exclusive SIPs currently represent single points of failure and are subject to heightened requirements for ''critical SCI systems.'' Under the proposed rule, competing consolidators' systems are not included within the scope of ''critical SCI systems.'' The Commission preliminarily believes that if competing consolidators' systems are subject to the standard requirements of Regulation SCI, they would not incur compliance costs of the heightened requirements for ''critical SCI systems.'' To the extent that the incremental costs of being subject to the heightened requirements for ''critical SCI systems'' versus the standard requirements for ''SCI systems'' is small, these cost savings could be low.

Second, among all of the SCI entities, competing consolidators have relatively simpler systems and fewer functions, and thus would have compliance costs closer to the lower end of the above cost estimates. The above cost estimates provide an average for all SCI entities, without distinguishing between different categories of SCI entities. However, the Regulation SCI adopting release explains that compliance costs would depend on the complexity of SCI entities' systems and they would be higher for SCI entities with more complex systems.[1092] Competing consolidators would likely have simpler systems and fewer functions relative to some of the other SCI entities, such as exchanges. As a result, the Commission preliminarily believes that competing consolidators' compliance costs are likely to be on the lower end of the average cost estimates for all SCI entities.

Additionally, the Commission preliminarily believes that some of competing consolidators' subscribers associated with the testing of business continuity and disaster recovery plans would incur Regulation SCI-related connectivity costs. Rule 1004 of Regulation SCI sets forth the requirements for testing an SCI entity's business continuity and disaster recovery plans with its designated members or participants.[1093] Competing consolidators and their designated subscribers would be subject to these same costs. The Regulation SCI adopting release estimated connectivity costs as part of these business continuity and disaster recovery plans to be approximately $10,000 per SCI entity member or participant.[1094] The Commission preliminarily believes that these connectivity cost estimates would also be applicable to competing consolidators' designated subscribers.

The Commission preliminarily believes that competing consolidators and various other market participants would incur certain indirect costs related to compliance requirements for competing consolidators as SCI entities.

The Commission preliminarily believes that the costs to comply with Regulation SCI discussed above would also fall on third-party vendors employed by competing consolidators to provide services used in their SCI systems. Regulation SCI requires that any system provided by a vendor to an SCI entity and used by that entity in its SCI system must also comply with Regulation SCI requirements. The Commission preliminarily believes that all costs discussed above for competing consolidators to comply with Regulation SCI would also fall on third-party vendors employed by competing consolidators in the course of providing consolidated market data. Examples of such vendors may include communications firms employed by competing consolidators to transport data from exchanges to the competing consolidator's aggregation servers at various data centers. If many third-party vendors are employed by potential competing consolidators in their consolidated market data business, the size of this cost could be significant. The Commission invites comment on the issue.

Additionally, the Commission preliminarily believes there is the potential for these costs to cause the vendors to end existing business relationships with market participants who become competing consolidators. It is possible that third-party vendors would not want to incur the costs that competing consolidators may impose to assure that the competing consolidator can comply with Regulation SCI requirements, and as a result be unwilling to provide services to the competing consolidator's consolidated market data business. To the extent that this happens, competing consolidators would incur costs from having to find new vendors, form a new business relationship, and adapt their systems to the infrastructure of the new vendor.

[1088] *See supra* Section V.G.

[1089] Regulation SCI Adopting Release, *supra* note 28, at notes 1943–1944.

[1090] *Id.* at notes 1945–1946.

[1091] *See supra* Section IV.B.2(f).

[1092] Regulation SCI Adopting Release, *supra* note 28, at 634.

[1093] *Id.;* Rule 1004.

[1094] *Id.* at note 2065.

Competing consolidators may also elect to perform the relevant functions internally. To the extent that competing consolidators either find new vendors or perform the functions internally, it would represent an increased inefficiency in the market, since presumably the current market data vendors are the most efficient means of performing these functions.

The Commission preliminarily believes that the technology supporting some of the services provided by vendors to current data aggregators (notably communications, such as microwave transmission) require significant expertise in order to be competitive and are difficult to replicate. To the extent this is the case, and to the extent that Regulation SCI requirements prevent competing consolidators from using these vendors, the ability of competing consolidators to provide consolidated market data in a manner that rivals current third-party aggregation practices could be significantly reduced.

(f) Economic Effects of the Decentralized Consolidation Model Pertaining to Self-Aggregators

As discussed above,[1095] a number of market participants currently purchase proprietary data products from the exchanges and consolidate this data for their internal use. To permit self-aggregation under the proposed decentralized consolidation model, the Commission proposes to define a self-aggregator as a broker or dealer that would receive information from the exchanges necessary to generate consolidated market data solely for internal use.[1096]

Market participants that currently effectively self-aggregate and that decide to become self-aggregators under the proposed decentralized consolidation model will have two choices regarding the use of the exchanges' proprietary data products. First, they may decide to limit the use of exchange data to the creation of proposed consolidated market data, in which case they would be charged for proposed consolidated market data pursuant to the fee schedules of the effective national market system plan(s) for NMS stocks. In this case, market participants would likely benefit from lower data fees as compared to current fees they pay for proprietary data and connectivity products.[1097]

Second, they may decide they need data beyond the scope of proposed consolidated market data, in which case they would be additionally charged for the proprietary data and connectivity services pursuant to the individual exchange fee schedules. In this case, the potential price gain would be limited to the price decline for the portion of the data corresponding to the proposed consolidated market data. The Commission is uncertain about the extent of this effect.

Market participants that currently effectively act as self-aggregators and that would choose to become self-aggregators under the proposed decentralized consolidation model may incur some switching costs, especially if the exchanges provide components of the consolidated market data with feeds and connections other than what these market participants currently use. However, since these market participants already have the infrastructure to receive the proprietary data products from the exchanges, the Commission expects these switching costs to be minimal.

(g) Other Conforming Changes

The Commission is proposing conforming changes for some of the previous Commission or SRO rules and regulations, which themselves can have economic effects. This section discusses the conforming changes and corresponding economic effects.

(i) Amendments to Regulation SHO

As described above in section III.D.1, the Commission is proposing amendments to Regulation SHO to adjust the process of determining whether a Short Sale Circuit Breaker has been triggered and disseminating such trigger information. First, the primary listing exchange would decide how to obtain the consolidated data necessary to determine whether a Short Sale Circuit Breaker should be triggered. Second, the primary listing exchange would be responsible for notifying competing consolidators and self-aggregators rather than a single plan processor. The first change allows the primary listing exchange to select the most cost-effective means of fulfilling its responsibilities. The second change could entail some compliance costs for competing consolidators but is necessary to ensure that all competing consolidators are on a level playing field. The resulting compliance costs for exchanges are included in the Commission's general compliance estimate above.[1098] The resulting compliance costs for competing consolidators are included in the Commission's estimate of the general costs to becoming a competing consolidator above.[1099]

In addition, the Commission is proposing to define ''primary listing exchange'' in Regulation NMS and to amend the definition of ''listing market'' in Regulation SHO to refer to the proposed definition of primary listing exchange. The Commission preliminarily believes that this change would have no direct economic effects, other than harmonizing Regulation SHO with Regulation NMS.

(ii) Effective Changes to Responsibilities Under the Limit Up Limit Down Plan and Market Wide Circuit Breaker Rules

The proposed definition of ''regulatory data'' requires the primary listing exchange to be the entity responsible for monitoring, calculating, and disseminating certain information necessary to implement the LULD Plan and the MWCB rules. These functions are currently the responsibility of a single exclusive SIP, however, the Commission is proposing that the primary listing exchanges be responsible for disseminating information regarding Price Bands and Limit States and the primary listing exchange with the largest portion of S&P 500 Index stocks be responsible for determining whether an MWCB has been triggered. While the Commission preliminarily believes that these amendments could result in implementation and ongoing costs for primary listing markets that currently do not operate a SIP, these amendments ensure a single set of Price Bands and a consistent message that MWCBs have triggered. The Commission preliminarily believes that the additional cost of calculating the information necessary to implement the LULD Plan and WMCB rules would be minimal. The cost imposed on these primary listing markets is included in the general compliance cost the Commission has estimated for SROs above.[1100]

(h) Request for Comments

The Commission requests comments on its analysis of the economic effects pertaining to the proposed decentralized consolidation model. In particular, the Commission solicits comment on the following:

228. Do you agree with the reasonableness of the Commission's assumption that the proposed amendments would lead to multiple competing consolidators participating in

[1095] *See supra* Section IV.B.2(e)(iii).

[1096] *Id.*

[1097] *See infra* Section VI.C.4.

[1098] *See supra* Section V.D.6.

[1099] *See supra* Section V.B.2.

[1100] *See id.*

the consolidated market data business and distributing data to market participants? Why or why not? Please explain in detail.

229. Are you an organization that would want to provide the competing consolidator service described? If so, please include an estimate of how much effort would be required for you to begin providing this service in the market. If you are willing to provide price estimates, please do so as well.

230. What factors are likely to influence the decision of various market participants to become competing consolidators? How large would be the barriers to entry to becoming a competing consolidator? Would there be any sources of barriers to entry other than building the technological infrastructure, filing Form CC, and complying with the other regulatory requirements associated with being a competing consolidator?

231. Which market participants would be likely to become competing consolidators? Are the current exclusive SIPs likely to become competing consolidators? Why or why not? Would existing market aggregation firms become competing consolidators? Why or why not? Would any other types of firms likely become competing consolidators? Why or why not?

232. How would the Commission's assessment of the economic effects of the rule be affected by too few competing consolidators? Please be specific.

233. To what extent would the adoption of the various proposals in Section III independently respond to some or all of the issues the proposed competing consolidator model is intended to address?

234. Do you agree with the Commission's assessment of the potential effect of the proposal on data fees? In particular, do commenters agree with the Commission's conclusion that the proposal could reduce overall data fees? What is the likely effect of the proposal on each of the components of the overall data fees, fees for consolidated market data, fees for proprietary market data, and fees for connectivity? What are some of the important factors that could result in fee increases and decreases? Please explain in detail.

235. The Commission requests that commenters provide any insights or data they may have as to potential changes in connectivity fees and the effect of these new connectivity fees on the proposed competing consolidator business.

236. Do you agree that there would be three potential benefits from the increased competition provided by the decentralized consolidation model: Efficiency gains in the delivery of consolidated market data, improvements in technological innovation in consolidated market data, and reductions in latency? Why or why not? If not, which benefits do you disagree with? Please explain.

237. What are the benefits of expanding Regulation SCI to define competing consolidators as ''SCI entities''? What are the costs of expanding Regulation SCI to define competing consolidators as ''SCI entities''? Please explain and provide cost estimates, if available.

238. The Commission requests that commenters provide relevant data and analysis to assist in analyzing how the total price of proposed consolidated market data (including the data fee paid to the operating committee(s) of the effective national market system plan(s) for NMS stocks and service fees paid to competing consolidators) in the decentralized consolidation model would compare to current pricing of SIP data. More specifically, how would the aggregate fees paid by various types of market participants under the decentralized consolidation model likely compare to the aggregate fees paid by the same types of market participants for the same data today, assuming the content of the data consumed by market participants remains constant but the providers of that data change? Would any market participant types be likely to expand the data they purchase if such data is included in the definition of consolidated market data? Please explain. How would the aggregate fees paid by such market participants under the decentralized consolidation model likely compare to the aggregate fees paid by them today, assuming such market participants expand the data they purchase? Please quantify if possible.

239. Do you agree with the Commission's assessment of the costs incurred by potential competing consolidators as a result of the proposal? Specifically, do you agree that potential competing consolidators would incur initial costs of $0.6 million to $3.9 million and ongoing costs of $2 million and $2.6 million? Why or why not? Please provide revised cost estimates, if possible. How would these costs vary across the types of entities likely to become competing consolidators? What costs would be common across competing consolidators?

240. Do you agree with the Commission's assessment of the costs to each SRO of amending effective national market system plan(s) for NMS stocks to implement the proposed decentralized consolidation model? Why or why not? Please explain and provide alternative cost estimates, if possible.

241. Would existing SIPs and exchanges lose business as a result of the proposed decentralized consolidation model? If so, what is the nature and potential magnitude of the business they would lose? Could any exclusive SIPs or exchanges gain business as a result of the decentralized consolidation model? Please explain.

242. Would the proposed decentralized consolidation model result in more NBBOs than could be viewed today? If so, would this increase the complexity of our markets? Why or why not? Please describe any economic effects resulting from an increase in multiple NBBOs.

243. Do you agree with the Commission's assessment of the costs to data users of potentially switching from purchasing market data from exclusive SIPs and/or exchanges to purchasing market data from competing consolidators? Why or why not? Please explain. Do you agree that these costs are likely to vary among types of market participants?

244. Would the proposed amendments result in the interruption of data available for research by the academic community and investors, such as TAQ data? If so, the Commission requests that commenters provide relevant data and analysis to assist us in determining the incremental social welfare cost of such interruption of data to the academic community and investors.

245. How costly would be the proposed changes to the entities responsible for requirements of Regulation SHO, LULD and MWCB for listing exchanges? What is the magnitude of such costs that derive from implementing processes to continuously calculate and track data metrics for compliance with the proposed changes? What is the magnitude of such costs that derive from notifying the competing consolidators and others of price bands and triggers? Does the magnitude of such costs depend on the number of competing consolidators?

246. Do you agree with the Commission's assessment of the benefits of subjecting competing consolidators to Regulation SCI requirements? Why or why not?

247. Do you agree with the Commission's assessment of the costs of subjecting competing consolidators to Regulation SCI requirements? Why or why not? Do you agree with the Commission's estimates of the costs involved? Please explain in detail.

248. Are geographically diverse backup systems a standard practice among firms likely to become competing consolidators today? What effect does the answer to this question have on the likely cost for competing consolidators to maintain geographically diverse backup systems?

249. Do you agree with the Commission's assessment on the impact of Regulation SCI requirements on third-party vendors employed by competing consolidators? Why or why not? To what extent do potential competing consolidators contract with third-party vendors for systems that would meet the definition of an SCI system? What is the magnitude of costs to third-party vendors who operate these systems to make sure these systems meet the requirements of Regulation SCI? What effect will this impact have on the ability of competing consolidators to provide reliable data products? Please explain and provide estimates, if possible.

250. Do you believe that the amendments to Regulation SCI could reduce innovation among new competing consolidators? Please explain. If so, which provisions of Regulation SCI affect innovation the most and how? Please explain.

251. How significant is the barrier to entry provided by Regulation SCI requirements on potential competing consolidators? Do you believe this will have a significant impact on the number of entities who enter the competing consolidator business? Why or why not?

3. Economic Effects of Form CC

As discussed above in Section IV.B, the proposed amendments would not let a person, other than an SRO, act as a competing consolidator, *i.e.,* generating proposed consolidated market data for dissemination to non-affiliated persons, unless that person files with the Commission an initial Form CC and the initial Form CC has become effective. The proposed amendments would require the public disclosure of Form CC, which requires a number of disclosures about a competing consolidator's services and fees and operations, and metrics related to the performance of competing consolidators. As a result, the proposed amendments would provide transparency for investors who might purchase the products and services of a competing consolidator. The Commission preliminarily believes that the information provided in Form CC and the resulting transparency would help market participants make better-informed decisions about which competing consolidator to subscribe to in order to achieve their trading or investment objectives.

Additionally, the Commission preliminarily believes that the process for the Commission to declare an initial Form CC ineffective would improve the quality of information the Commission receives from competing consolidators, which would allow the Commission to better protect investors from potentially incomprehensible or incomplete disclosures that would misinform market participants about the operations and services of a competing consolidator.

(a) Public Disclosure of Form CC and Other Competing Consolidator Information

The proposed Form CC would require competing consolidators to publicly disclose four sets of information on the Commission website.[1101] First, proposed Form CC would require competing consolidators to disclose general information, along with contact information. Second, proposed Form CC would require competing consolidators to disclose information regarding their business organizations. Third, proposed Form CC would require competing consolidators to disclose information regarding their operational capabilities. Fourth, proposed Form CC would require competing consolidators to disclose information regarding their services and fees. The proposed rule also includes requirements for amendments under defined circumstances and a notice of cessation of operations at least 30 business days before the date the competing consolidator ceases to operate as a competing consolidator. Proposed Form CC, any amendments to it, and any notices of cessation would be made public via posting on the Commission's website. The proposed rule also has a disclosure requirement about competing consolidators' performance metrics on their own websites. Additionally, the proposed rule would require competing consolidators to disclose operational information on their websites related to vendor alerts, data quality and systems issues, and clock drift in the clocks they use to create timestamps. Generally, these requirements promote transparency and competition among competing consolidators and effective regulatory oversight within a streamlined approach to avoid significant barriers to entry.

The business organization disclosures would give market participants a window into the ownership as well as the organizational structures of competing consolidators. The Commission preliminarily believes that this information would help market participants make better-informed decisions about which competing consolidator to subscribe to as well as how to avoid any potential conflicts of interest. For example, if a broker-dealer is considering subscribing to a competing consolidator for consolidated data and any other potential additional services such as analytics, they may search for a competing consolidator that is not owned by a competitor or an affiliate of a competitor in the broker-dealer space. Purchases of data and additional market intelligence services between two competitors could potentially create conflicts of interest. Thus, the required disclosure of a competing consolidator's business organization—which would, for example, clarify the ownership information—would provide transparency on its potential conflicts of interest.

The information on operational capabilities would provide market participants detailed information about each competing consolidator's product portfolio and technical capabilities. Since market participants vary in their data and technical capability needs, information on competing consolidators operational capabilities would allow the market participants to make better-informed purchase decision. For example, market participants who trade frequently and who need robust backup systems might choose competing consolidators with those capabilities. Whereas other market participants who have longer term investment strategies with potentially less frequent trades might prefer competing consolidators with less aggressive backup systems. Proposed Form CC disclosures would facilitate a better match between market participants' needs and competing consolidators' offerings, and would also help to ensure consistent disclosures between competing consolidators.

With the consistent disclosures on services and fees, market participants could compare and contrast the various services provided and the corresponding fees asked by competing consolidators. Market participants could then make better purchase decisions, based on their individual needs. Additionally, the service and fee transparency resulting from these disclosures would promote competition in similar products and/or services across different competing consolidators, which could result in similar prices, and would help to protect market participants from unfair and unreasonable prices.

[1101] *See supra* Section IV.B.2(e).

The Commission preliminarily believes that the proposed requirement for competing consolidators to amend Form CC prior to implementing material changes to their pricing, products, or connectivity options would provide transparency into changes in the operations of competing consolidators and better inform subscribers and other market participants about significant changes in the fees and services offered by a competing consolidator. This would allow subscribers to a competing consolidator to better evaluate if it would continue to serve their business needs. Additionally, it would facilitate effective oversight by the Commission.

Similarly, the Commission preliminarily believes that the requirement for a notice of cessation would also benefit subscribers to the competing consolidator, because it would give them advanced notice before the competing consolidator ceases to operate. Thus those subscribers would have more time to find another competing consolidator to supply them with consolidated market data.

The fact that the information on Form CC would be in a single location instead of dispersed across the competing consolidators' own websites would aid market participants by introducing only minimal search costs when evaluating and comparing potential competing consolidators to decide which one best suits their business interests.

As discussed above,[1102] the Commission preliminarily believes the proposed rule would cause each competing consolidator, except for SROs, to incur an approximately $93,540 in implementation compliance cost in order to collect the information required to fill out and file an initial Form CC as well as $5,744 in ongoing costs in order to file amendments to an effective Form CC. The Commission believes these requirements are streamlined to include only what is necessary to achieve the benefits discussed above without creating significant barriers to entry that would discourage entities from becoming competing consolidators.

Competing consolidators would also experience implementation costs because initial Form CC and any amendments to Form CC would be required to be filed electronically with the Commission. The Commission preliminarily believes that requiring Form CC to be filed electronically would reduce filing costs compared to requiring the competing consolidator to file paper forms.

To file a form CC, competing consolidators would need to access the Commission's EFFS system. Each competing consolidator would have to submit an application and register each individual who would access the EFFS system on behalf of the competing consolidator. The Commission believes that each competing consolidator would initially designate two individuals to access the EFFS system, with each application taking 0.15 hours for a total of 0.3 hours per competing consolidator. On an ongoing basis, each competing consolidator will add one individual to access the EFFS system for amendments, adding 0.15 hours per competing consolidator. To make a submission into the EFFS system, the competing consolidator must download a proprietary viewer; however, the Commission would cover the cost of the license for all competing consolidators, as it currently does for other filers that use the EFFS system.

Because the EFFS system is not available to the public, when the Commission makes an effective Form CC available to the public, the Commission will transform the data into an unstructured format, meaning that it is not machine-readable. Market participants that would use the Form CC data to evaluate and compare competing consolidators would bear the costs of locating, comparing, and evaluating the information on the Commission's website and take steps to put the information ''side by side'' for comparison purposes.

The Commission preliminarily believes that the public disclosure of performance metrics and additional information would introduce transparency to the operations of competing consolidators. These metrics would allow subscribers and potential subscribers to better evaluate the performance and current and future capabilities of a competing consolidator. Market participants, based on their individual needs, could review competing consolidators' performance statistics and choose ones that would best serve their trading needs. While the requirements to post the monthly performance metrics and operational information on websites would introduce transparency, it would not completely eliminate costs incurred when market participants want to compare competing consolidators because collecting the information would involve market participants expending some resources to go to each competing consolidator's website.

Competing consolidators would also incur implementation and ongoing compliance costs in order to setup and maintain systems required to calculate and produce the information for the performance metrics as well as other information the competing consolidator would be required to post to its website.

Each month, competing consolidators would be required to post the monthly performance metrics and operational information on their own websites. Excluding the cost of preparing the information, the Commission estimates an average competing consolidator would incur a one-time cost of $2,651 (6 hours (for website development) × $308.50 per hour (blended rate for a senior systems analyst ($285) and senior programmer ($332)) + $800 for an external website developer to develop the web page = $2,651) for posting the required information to a website, and would incur an ongoing annual cost of up to $3,702 (1 hour (for website updates) × $308.50 per hour (blended rate for a senior systems analyst ($285) and senior programmer ($332)) × 12 monthly postings = $3,702) to update the relevant web page each month. Because the monthly performance metrics and operational information may be posted in any format the competing consolidator finds most convenient, market participants that would use the data to evaluate and compare competing consolidators would bear the costs of locating, comparing, and evaluating the information on each competing consolidator's website. The Commission preliminarily believes that the operational information that competing consolidators would be required to publicly disclose on their websites would create a mechanism for market participants to hold competing consolidators accountable for any systems issues they may experience. One strong accountability mechanism market participants have is their purchasing power. The disclosure requirements would alert market participants to any system breaches or any data quality or systems issues a competing consolidator experiences. Market participants could hold competing consolidators accountable by abandoning competing consolidators that repeatedly experience system issues and gravitating toward competing consolidators that demonstrate more reliable systems through their disclosures. This demand shift could cause competing consolidators with less reliable systems to exit the market.

In addition to the requirements of Regulation SCI promoting competing consolidators to develop resilient

[1102] *See supra* Sections V.D.1(a), VI.C.2(d); *supra* note 664.

systems,[1103] the requirement that competing consolidators publicly disclose information on systems issues as well as performance metrics regarding system availability could also encourage competing consolidators to make investments that would ensure the resiliency of their systems. These disclosures would help market participants determine which competing consolidators have more reliable systems. Competing consolidators who display more reliable systems with greater system availability would attract more subscribers. This should incentivize competing consolidators to invest in better backup systems or other technology that would improve the resiliency of their systems and increase their system uptime.

The Commission preliminarily believes that information from the disclosures in Form CC and the performance metrics and operational information competing consolidators would provide on their websites would promote effective regulatory oversight of competing consolidators and increased investor protection by providing the Commission and relevant SROs with information about competing consolidators. With this information, the Commission and the SROs could identify competing consolidators that are not properly complying with the proposed amendments or parts of them. The Commission and SROs, then, could utilize this information to help prioritize examinations and possibly help identify potential issues.

The Commission preliminarily believes that the public disclosure of the information in Form CC and the performance metrics and operational information competing consolidators would provide on their websites could also increase competition between competing consolidators and also expose some competing consolidators to certain competitive effects. If the public disclosures show that certain competing consolidators have higher fees or poorer performance, it may result in those competing consolidators losing subscribers and earning lower revenues. Similarly, competing consolidators who display lower prices or superior system performance may be able to attract more subscribers and earn more revenue. The public disclosure of the fee and performance information on the Commission and competing consolidator websites would facilitate competing consolidator comparison and would also promote competition. Greater competition between competing consolidators could in turn incentivize competing consolidators to innovate—particularly in terms of their technology—so that they can attract more subscribers.[1104]

(b) Commission Review and Process for Declaring Initial Form CC Ineffective

The Commission preliminarily believes that the process of reviewing an initial Form CC would allow the Commission to evaluate, among other things, the completeness and comprehensibility of the competing consolidators' disclosures and, if necessary, declare the Form CC ineffective. To be a consolidated market data provider, a competing consolidator is required to have a Form CC that has become effective pursuant to proposed Rule 614(a)(1)(v). Thus, for competing consolidators that submit low quality and potentially inaccurate data, the Commission's review and declaration of their Form CC ineffective could start an iterative cycle of increasingly better information provision, until the competing consolidator can have an effective Form CC. The Commission preliminarily believes that this public disclosure and review process would improve the quality of information the Commission receives from competing consolidators, which would allow the Commission to better protect investors from potentially incomprehensible or incomplete disclosures that would misinform market participants about the operations of the competing consolidator. Additionally, an entity cannot operate as a competing consolidator without an effective Form CC. The Commission's review would be designed to ensure that the competing consolidators serving the investors would be the ones that meet the Commission's qualification requirements.

The Commission preliminarily believes that the filing requirements of Form CC and the Commission review period could impose costs on competing consolidators. The Commission preliminarily believes that declaring a Form CC ineffective could impose costs on a competing consolidator—such as delaying the start of operations while the competing consolidator resubmits its Form CC—and could impose costs on individual market participants and the overall market for competing consolidators resulting from a potential reduction in competition. However, competing consolidators and market participants would not incur these costs unless the competing consolidator submitted a deficient Form CC. Therefore, the Commission preliminarily believes that a competing consolidator would be incentivized to submit Form CC disclosures that are complete and comprehensive to avoid bearing the costs of resubmitting a Form CC filing or of having its Form CC declared ineffective.

The Commission recognizes that the registration process would create uncertainty about whether the form would be declared ineffective. This uncertainty could create a disincentive for entities to become competing consolidators, which could potentially reduce competition in the competing consolidator market.[1105]

(c) Request for Comments

The Commission requests comments on its analysis of the economic effects of proposed Form CC. In particular, the Commission solicits comment on the following:

252. Do you agree that Form CC would help market participants make better-informed decisions about which competing consolidators to subscribe to in order to achieve their trading or investment objectives? Why or why not?

253. Do you agree that the process for the Commission to declare an initial Form CC ineffective would promote the quality of information the Commission receives from competing consolidators? Do you agree that the quality would affect the ability of the Commission to protect investors? Why or why not?

254. Do you agree with the Commission's assessment of the costs of Form CC? Please explain and provide cost estimates, if available.

255. Do you agree that filing initial Form CC and amendments to Form CC electronically with the Commission through the EFFS system would reduce filing costs and increase benefits compared to filing paper forms? Please explain.

256. The Commission has provided cost estimates that competing consolidators would incur for accessing and filing using the Commission's EFFS system. Do you believe these cost estimates are accurate? If not, please explain. Do you believe there are other costs potential competing consolidators would incur related to using the EFFS system that the Commission should consider?

257. Do you agree that the proposed performance metrics would create operational transparency of competing consolidators and allow subscribers and potential subscribers to evaluate and compare the performance of competing

[1103] *See supra* Section VI.C.2(e)(i).

[1104] *See infra* Section VI.D.2 (discussing the potential effects of the proposal on competition).

[1105] *See infra* Section VI.D.2 (discussing the potential effects of the proposal on competition).

consolidators? Please explain. Do you agree that posting the monthly performance metrics on the websites of the competing consolidators would limit the ability to compare competing consolidators relative to posting or filing the metrics in a central location? Please explain.

258. How costly would it be for competing consolidators to calculate and post the performance metrics? Please explain and provide cost estimates.

259. The Commission has provided cost estimates that competing consolidators would incur for posting monthly statistics on their websites. Do you believe these cost estimates are accurate? If not, please explain. Do you believe there are other costs competing consolidators would incur related to posting monthly statistics on their websites that the Commission should consider? Please explain.

260. Do you agree with the Commission's assessment of the costs imposed by the process for declaring an initial Form CC ineffective, including the uncertainty it would create? Please explain.

4. Economic Effects From the Interaction of Changes to Core Data and the Decentralized Consolidation Model

The Commission preliminarily believes that the proposed amendments would have a number of economic effects that are only possible as a result of a combination of the expanded content of core data and latency reductions due to the introduction of the decentralized consolidation model.[1106] Specifically, the Commission preliminarily believes that the combination of these factors would affect proprietary data feed business; market participants who choose to engage in market making, smart order routing, and other latency sensitive trading businesses; the Consolidated Audit Trail; and data vendor business.

(a) Economic Effects on the Proprietary Data Feed Business

The Commission preliminarily believes that the expanded content of core data and latency reduction due the introduction of the decentralized consolidation model could make proposed consolidated market data a reasonable alternative to exchange proprietary data feeds for some market participants. This would have the effect of providing these market participants with a potentially lower cost option (relative to proprietary feeds) for low latency, high content market data. The lower cost of either self-aggregating proposed consolidated market data or obtaining a competing consolidator's data feed would come at the expense of losing the full set of data currently available via proprietary feeds, because the proposed consolidated market data definition does not include all data elements currently available via proprietary data feeds. Nevertheless, some market participants may find that the expanded content of core data makes the trade-off worth it and may choose to drop their proprietary feed subscriptions in favor of the proposed consolidated market data.

This effect would represent a transfer from exchanges who sell proprietary data feeds to the market participants who would save money by either self-aggregating proposed consolidated market data or subscribing to a competing consolidator's data feed. In the latter case, a portion of the benefit is also transferred to the competing consolidator in the form of additional business. The Commission preliminarily believes that a transfer from the exchanges to market participants may help market participants enhance their product and service offerings to their customers. Additional business and revenues for competing consolidators may enhance competing consolidators' efforts to offer higher quality products and a wider range of product offerings.[1107]

It is possible that changes to the pricing and customer base of core and proprietary data feeds may not have a uniform impact across all exchanges. Some exchanges currently have more proprietary feed revenue than others, and some exchanges may currently rely more on revenue from SIP data fees than other exchanges. To the extent that an exchange receives a large share of revenue from its proprietary feed business, the impact of these potential reductions in proprietary feed subscriptions could be large for that exchange. To the extent that an exchange receives only a small portion of its revenue from proprietary feed subscriptions, the impact of these potential reductions in subscriptions could be small for that exchange. The Commission invites comment on the issue.

The Commission also notes that the exchanges' revenues from connectivity services may increase or decrease, depending on any new data connectivity fees that the exchanges may propose for data content use cases. The connectivity fees for proposed consolidated market data must be fair and reasonable and not unreasonably discriminatory.[1108] If these new connectivity fees are higher than current fees, there is a possibility that the exchanges' overall revenue from connectivity services would increase. It is also possible that exchanges could lose revenue from existing customers reducing the number of ports or the amount of bandwidth they purchase as they switch to competing consolidators for some use cases. The overall effect on the exchanges' connectivity revenues is uncertain, and the impact on connectivity revenues could differ across different exchanges.

The Commission preliminarily believes that these competitive pressures on the exchange proprietary feed and connectivity business could also have the effect of causing the exchanges to lower the fees they charge for these services in an effort to stay competitive with the proposed consolidated market data. This effect represents a transfer from the exchanges to the customers of these services. To the extent that existing customers of these services invest the money saved from lower fees in new products (such as expanding brokerage services) this effect will also have benefit of encouraging the creation of new products and services. To the extent that the lower fees for these services enable new market participants to subscribe to these feeds and offer the services that these feeds are required for (such as high quality execution brokerage services), this effect will also represent a benefit in the form of new competition in the broker-dealer business.

The Commission preliminarily believes, however, that if a small latency differential between competing consolidator feeds and the proprietary data feeds remains, then the above effects are likely to be small, owing to the nature of high speed competition.[1109] However, this limitation would only be for the case where current subscribers to proprietary data feeds switch to using a competing consolidator feed. In the case of those proprietary feed subscribers who become self-aggregators, the Commission preliminarily believes that it is unlikely that this would result in a latency differential compared to receiving proprietary data.[1110] It is also

[1106] *See supra* Section VI.C.2(c) (discussing the effect of the decentralized consolidation model on consolidated market data latency).

[1107] *See supra* Section VI.C.2(c).

[1108] *See supra* note 620.

[1109] *See supra* Section VI.B.2(b).

[1110] More generally, the proposed rule would enable some reduction in the latency differential between current market participants to the extent that such market participants would be willing to

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possible that the data that would remain exclusive to proprietary feeds would also reduce the incentives for market participants to switch to using consolidated market data only, further reducing the size of the above effects.

In the event that proprietary data feed subscribers are willing to switch to receiving new consolidated market data and a latency differential remains between these feeds and feeds provided by competing consolidators, the effects discussed in this section would apply only to those market participants who become self-aggregators. The Commission preliminarily believes that the set of current subscribers of proprietary feeds willing to become self-aggregators may be smaller than the set of current subscribers willing to switch to using a competing consolidator, as it is possible that subscribing to a competing consolidator would be more convenient or less costly. To the extent this is the case, the size of the effects described in this section will be reduced. Furthermore, these self-aggregators may continue to enjoy a latency advantage over customers of competing consolidators.

To the extent that the changes to proprietary feed subscriptions described above are realized, the exchanges would have corresponding losses in revenue or profit from the provision of proprietary data. Since the Commission is unable to determine how many broker-dealers or other market participants would no longer want to use proprietary data feeds as a result of this rule, it is unable to determine the size of this potential reduction in revenue or profit.

(b) New Entrants Into the Market Making, Broker-Dealer and Other Latency Sensitive Trading Businesses

The Commission preliminarily believes that proposed amendments may lead to new market participants entering the market making, smart order routing broker-dealer, and other latency sensitive trading businesses. For instance, it is possible that currently there are broker-dealers who would try to compete in the business of sophisticated order routing but choose not to because of the cost of the market data necessary to be competitive. To the extent that the expanded content of new core data and the latency reductions due to the introduction of the decentralized consolidation model make consolidated market data a viable data product for smart order routing, the Commission preliminarily believes that these changes could induce these broker-dealers to enter the business.[1111] This would have the benefit of increasing competition in the sophisticated order routing broker-dealer business.

The Commission preliminarily believes that access to this new, faster consolidated market data could encourage new entrants into the automated market maker business. This would not only improve the competitiveness of this business but also may increase liquidity in the corresponding markets.

The Commission preliminarily believes that if these new entrants would want to use a competing consolidator, and if a small latency differential between competing consolidator feeds and the proprietary data feeds remains, then this effect is likely to be small.[1112] If instead these potential new entrants were to become self-aggregators, then this limitation would be reduced, because the Commission preliminarily believes that there is unlikely to be a significant latency differential between being a self-aggregator and using proprietary data feeds. However, if self-aggregation is required to be a new entrant in these businesses, the number of potential new entrants could be small, since using a competing consolidator may be more convenient or less costly than self-aggregating.[1113] It is also possible that potential participants in the sophisticated SOR, automated market making, and other latency sensitive trading businesses find that they cannot compete effectively without using the data that would remain exclusive to proprietary feeds. To the extent this is the case, the effects discussed above would be further limited.

(c) Effects From the Interaction With the Consolidated Audit Trail

(i) CAT Baseline

Rule 613 of Regulation NMS requires the national securities exchanges and national securities associations (''self-regulatory organizations'') to jointly develop and submit to the Commission a national market system plan to create, implement and maintain a consolidated audit trail (''CAT'').[1114] At the time of adoption, and even today, trading data was and is inconsistent across the self-regulatory organizations and certain market activity is difficult to compile because it is not aggregated in one, directly accessible consolidated audit trail system. The goal of Rule 613 was to create a system that provides regulators with more timely access to a sufficiently comprehensive set of trading data, enabling regulators to more efficiently and effectively reconstruct market events, monitor market behavior, and identify and investigate misconduct. Rule 613 thus aims to modernize a reporting infrastructure to oversee the trading activity generated across numerous markets in today's national market system.

On November 15, 2016, the Commission approved the national market system plan required by Rule 613 (''CAT NMS Plan'' or ''Plan'') that was submitted by the self-regulatory organizations.[1115] In the CAT NMS Plan, the Participants described the numerous elements they proposed to include in the CAT, including, (1) requirements for the plan processor responsible for building, operating and maintaining the Central Repository,[1116] (2) requirements for the creation and functioning of the Central Repository, (3) requirements applicable to the reporting of CAT Data by plan participants and their members. ''CAT Data'' is defined in the CAT NMS Plan as ''data derived from Participant Data, Industry Member Data, SIP Data, and such other data as the Operating Committee may designate as 'CAT Data' from time to time.'' [1117]

The CAT NMS Plan requires plan participants and their members to record and report various data regarding orders by 8:00 a.m. the day following an order event.[1118] The Plan requires industry members to record timestamps for order events in millisecond or finer increments with a clock synchronization standard of within 50 milliseconds.[1119] The CAT NMS Plan Processor, FINRA CAT, is then required to process the order data into a uniform format, link the entire lifecycle of each order, and combine it with other CAT

make the necessary technology and personnel investments to take advantage of the latency reductions provided by the decentralized consolidation model. Thus, while some differences in latency may remain, the barriers to entry for market participants to compete in the latency sensitive businesses at various levels of sophistication and competitiveness would be reduced.

[1111] These would be broker dealers who have not entered these businesses because, currently, the only way to obtain the benefits associated with the new, expanded core data and decentralized consolidation model is to subscribe to proprietary data feeds, which the Commission preliminarily expects to remain more expensive than core data.

[1112] *See supra* Section VI.B.2(b).

[1113] For related discussion on latency advantages, *see supra* note 1110.

[1114] *See supra* note 624.

[1115] *See id.*

[1116] The Central Repository is the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT. *See* CAT NMS Plan, *supra* note 624, at Section 1.1.

[1117] *See id.* The Operating Committee is the governing body of the CAT NMS Plan.

[1118] *See id.* at Sections 6.3 and 6.4.

[1119] *See id.* at Section 6.8.

Data such as SIP Data.[1120] The Plan Processor is also required to store the CAT Data to allow the ability to return results of queries on the status of order books at varying time intervals.[1121] Regulators, such as the Commission and SROs will use the resulting CAT Data only for regulatory purposes such as reconstructing market events, monitoring market behavior, and identifying and investigating misconduct.[1122] At this time, the Commission has little information about what specific data, in addition to CAT Data, such as proprietary depth of book and auction data, the SROs currently intend to include in their enhanced surveillance systems.[1123]

(ii) Economic Effects on CAT

The Commission recognizes that the proposal could affect the Consolidated Audit Trail, resulting in benefits to investors from improved regulatory oversight, costs to CAT from potentially switching from a current SIP to a competing consolidator, costs to CAT from integrating consolidated market data into the CAT Data model, and costs to SROs of updating their enhanced surveillance systems to use consolidated market data provided by the CAT.[1124] Specifically, the Plan Processor for the Consolidated Audit Trail, FINRA CAT, is required to incorporate all data from SIPs or pursuant to an NMS plan into the Consolidated Audit Trail. If the Commission were to approve these amendments, the CAT NMS Plan Operating Committee could choose to purchase such data from a different entity and would be required to purchase the expanded consolidated data.

The Commission believes that the incorporation of the expanded data into CAT would improve regulatory oversight to the benefit of investors. As explained in the Approval order for the Consolidated Audit Trail, the expected benefits of the CAT include ''improvements in regulatory activities such as the analysis and reconstruction of market events, in addition to market analysis and research . . ., as well as market surveillance, examinations, investigations, and other enforcement functions,'' and derive from improvements in four data qualities: Accuracy, completeness, accessibility, and timeliness.[1125] Accuracy refers to whether the data about a particular order or trade is correct and reliable. Completeness refers to whether a data source represents all market activity of interest to regulators, and whether the data is sufficiently detailed to provide the information regulators require. Accessibility refers to how the data is stored, how practical it is to assemble, aggregate, and process the data, and whether all appropriate regulators could acquire the data they need. Timeliness refers to when the data is available to regulators and how long it would take to process before it could be used for regulatory analysis.

The Commission believes that the expanded consolidated data from the proposal could improve the completeness and accessibility of CAT Data.[1126] In particular, the proposal would improve the completeness of CAT Data because CAT Data would contain quotes smaller than 100 shares, depth of book information, and auction information. While the CAT will contain query functionality capable of recreating limit order books, the depth of book information would allow regulators to see the displayed order books that others see around the time of the order events. While the Commission does not know if SROs plan to incorporate depth of book and auction information into their enhanced surveillance systems or other regulatory activities using CAT Data, the proposal would improve the accessibility of consolidated market data for SRO and Commission CAT-related uses because SROs would have access to such data in a standardized format through the Consolidated Audit Trail instead of through the variety of formats currently used in proprietary data. The proposal would also improve accessibility because the SROs and Commission would have such data on the same system as CAT Data.

The Commission believes that the potential improvements in completeness and accessibility would facilitate more efficient regulatory activities using CAT Data that would benefit investors. In particular, the proposal could make broad-based market reconstructions using CAT Data more efficient by increasing the depth of information that could be incorporated into such reconstructions with CAT Data alone. The Commission believes that depth of book information, quote information in sizes less than 100 shares, and auction information are all valuable in a broad-based market reconstruction. Further, the improvements would allow for more targeted surveillances and risk-based examinations using CAT Data alone. For example, the depth of book information would be valuable when building surveillances to detect spoofing or in investigating spoofing because spoofing often involves creating a false impression of depth at prices outside of the best bid or offer. In addition, the auction information would facilitate auction market reconstruction to evaluate manipulation concerns and inform policy. Quote information in sizes less than 100 shares would facilitate analysis by regulators of broker-dealers' best execution practices by providing potential execution prices that are better than the current NBBO.[1127]

The Commission recognizes that the interaction between the proposal and the Consolidated Audit Trail could also create additional costs. Such additional costs are likely to be borne by SROs and their members. These costs could include switching costs, additional data costs, and data storage and processing costs. The proposal would result in switching costs if the CAT Central Repository has to obtain the data from a different source. The source of the switching costs could be from changing data input formats and technical specifications, which would require one-time implementation costs. The Commission recognizes that the SIP technical specifications change a few times a year such that the switching costs associated with the proposal would be the costs in excess of the regular costs incurred when the SIP technical specifications change.[1128] The

[1120] *See id.* at Section 6.5.

[1121] *See id.* at Section 6.5(c)(ii).

[1122] *See id.* at Section 6.5(g); CAT NMS Plan Approval Order, *supra* note 624, at 84833–4.

[1123] *See* Rule 613(f) of Regulation NMS.

[1124] *See supra* Section IV.B.5 for a more detailed discussion of how the proposal would alter the requirements of the Consolidated Audit Trail NMS Plan.

[1125] *See* CAT Approval Order, *supra* note 624, at 84802–3.

[1126] The Commission believes the proposal would not affect the accuracy or timeliness of CAT Data. The Commission does not believe that the proposal would alter the accuracy of timestamps of trades and quotes. While some competing consolidators might offer data that more accurately represents the data observed by certain market participants at the time of an order event, the Commission does not expect that all market participants would observe the exact same data at that order event, much like the case today. In addition, industry member clock synchronization and timestamps on the order events in CAT Data are not fine enough for the latency improvements to affect the accuracy of assigning an order event to the consolidated market data likely observed at the time of the order event. Finally, the order data in CAT is not required to be reported until 8:00 a.m. the day following an order event. Hence, because latency improvements from the proposal would be measured in microseconds, the Commission does not believe that the proposal would improve the timeliness of CAT Data.

[1127] *See supra* Section VI.C.1(b)(i) for data showing that odd-lot quotes in higher priced securities often improve upon the current NBBO.

[1128] *See* CTA, Technical Documents, *available at https://www.ctaplan.com/tech-specs* (last accessed Jan. 30, 2020) (showing the SIP tech specs version

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Commission at this time, cannot judge whether switching data providers would result in higher or lower on-going data intake costs but data intake costs presumably could be factored into the selection of a competing consolidator. The Commission recognizes that increasing the amount of data managed and analyzed by CAT would increase the costs of data storage and processing to integrate the expanded data with other CAT Data. However, the Commission does not expect the proposal to substantially increase the costs of operating the CAT because any marginal increase in cost associated with consolidated market data would be dwarfed by the processing costs already incurred by CAT, which includes processing for all options quotation activity among other order lifecycle events and is significantly larger in size than consolidated market data.

The Commission recognizes that the proposal would result in SROs incurring costs to integrate additional CAT Data into their surveillances. Even if the SROs would otherwise include depth of book and auction information in the CAT-related surveillances, they would incur costs in changing their surveillances to use the data in CAT rather than using data from proprietary feeds.

The Commission also considered whether the requirements in CAT would impose costs as a result of CAT's effect on the competition among competing consolidators. Because the Commission does not believe CAT would significantly affect the competition among competing consolidators,[1129] it would not impose additional costs resulting from this effect.

The Commission preliminary believes that CAT implementation milestones will not be impacted by the infrastructure proposal given that sufficient lead time would be available and integration efforts could be scheduled as part of standard release planning. The Commission believes that switching market data providers and expanding consolidated market data within CAT would require limited resources relative to the current implementation activities. Further, any resources devoted by SROs to updating their surveillances are separate from the efforts to implement CAT.

(d) Effects on Data Vendors

The Commission preliminarily believes that the proposed amendments would have an effect on the broad financial data services industry. To the extent that the amendments lead to cheaper (relative to proprietary data feeds) and higher content consolidated market data, the Commission preliminarily expects that costs to data vendors would go down and the ability of such vendors to grow their customer base would increase. It is also possible that data vendors may increase the range and quality of products they offer using the new expanded core data and that new firms enter the data vendor business. To the extent that the risk of price increases for core data is realized instead, the Commission believes these businesses could potentially face higher costs, which when passed on to clients could cause their customer base to shrink. In the event that these outcomes are severe, it is possible that some data vendors could exit the market. The Commission is uncertain about the potential size and scope of these effects because it is unable to determine both the role of these costs in producing the products supplied by the data services industry and the extent to which the enhanced quality of new core data could play a role in the quality of their products. The Commission invites comments on the issue.

(e) Request for Comments

The Commission requests comments on its analysis of the economic effects from the interaction of changes to core data and the decentralized consolidation model. In particular, the Commission solicits comment on the following.

261. Do you agree with the Commission's analysis of the effect of the proposal on the proprietary data business? Why or why not? Please explain in detail.

262. Would exchanges lose proprietary data business as a result of the proposed decentralized consolidation model? Why or why not? Please explain. Would any market participants still elect to purchase proprietary data feeds from exchanges? If so, which market participants? Please explain in detail. What would be the net effect of any changes in this business?

263. The Commission invites comment on the role of SIP data revenue and proprietary feed revenue in the overall data revenue of exchanges. To what extent do exchanges rely on each source of revenue? Please explain in detail.

264. Do you agree with the Commission's analysis of the effects of the proposed amendments on the broad financial industry data services industry? Why or why not? Please explain in detail. Would the proposal lead to new broker-dealers developing SORs, new market makers, or other new latency sensitive traders? If so, what would be the economic effect of these new players? Please explain in detail.

265. Do you agree with the Commission's analysis of the effects of the interaction between the proposal and the Consolidated Audit Trail? Why or why not? Please explain.

266. Would the proposal result in more complete and/or accessible CAT Data? Please explain. How would regulators use the additional CAT Data resulting from the proposal and how would investors benefit from this usage? Please explain.

267. To what extent would the proposal alter the SROs enhanced surveillances using CAT Data? Please explain. Would the proposal result in SROs incorporating more depth of book and auction information into their surveillances? What would be the costs and benefits of doing so? Please explain.

268. If the proposal resulted in FINRA CAT switching data providers, what would be the switching costs? How would the proposed amendments affect the implementation and ongoing costs of CAT? Please provide estimates if possible.

269. Do you agree that the proposal would not affect the implementation of CAT? Please explain.

270. Do you agree with the Commission's analysis of the effects of the proposal on data vendors? Why or why not? Please explain.

5. Request for Comments on the Economic Effects of the Proposed Rule

The Commission requests comment on its analysis of the economic effects of the proposed amendments. In particular, the Commission solicits comment on the following:

271. Do you believe the Commission's analysis of the potential economic effects of the proposed amendments is reasonable? Why or why not? Please explain in detail.

272. Do you believe the proposed amendments may have unintended consequences that are not captured by the Commission's analysis of the potential economic effects? Why or why not? Please explain in detail.

273. Do you agree with the Commission's analysis of the benefits of the proposed amendments? Why or why not? Please explain in detail.

274. Do you agree with the Commission's analysis of the costs of

history, which identifies the changes over the years); UTP Data Feed Services Specification, *supra* note 142 (showing the SIP tech specs version history, which identifies the changes over the years).

[1129] *See infra* Section VI.D.2 for a discussion of the interaction between the proposal and CAT on competition among competing consolidators.

the proposed amendments? Why or why not? Please explain in detail.

275. The Commission requests that commenters provide relevant data and analysis to assist us in determining the economic consequences of the proposed amendments. In particular, the Commission requests data and analysis regarding the costs SROs, exclusive SIPs, and market participants may incur, and benefits they may receive, from the proposed amendments.

D. Impact on Efficiency, Competition, and Capital Formation

1. Efficiency

The Commission preliminarily believes that the proposed amendments would have a number of different effects on efficiency. In particular, the Commission preliminarily believes that the proposed amendments would: Lead to more efficient gains from trade, improve the efficiency of order execution for some market participants, improve price efficiency, and affect how efficiently core data is distributed. The rest of this section discusses these different effects of the proposed amendments on efficiency in detail. The Commission solicits comments whether the proposed amendments might have a significant impact on other forms of efficiency.

As discussed above, the Commission preliminarily believes that the expansion of core data under the proposed amendments would increase transparency for market participants who do not currently access proprietary DOB feeds and allow them to more easily find liquidity that they can trade against.[1130] Currently, some of these market participants may not trade because they cannot see the quotes available to them, either through a lack of information about odd-lots, depth of book, or auction information. The Commission preliminarily believes that the proposed amendments would alleviate some of this information shortage and would allow traders to more easily find counterparties. This may result in more voluntary trades occurring between market participants, which could lead to more efficient gains from trade, since these are trades which currently do not take place only because of a lack of information.[1131] However, if the inclusion of additional odd-lot, depth of book, or auction information does not induce additional voluntary trading from market participants who do not currently access proprietary DOB feeds, then the proposed amendments may not produce more efficient gains from trade.[1132]

The Commission preliminarily believes that the expansion of core data could also improve the efficiency with which some market participants, or their broker-dealers, execute orders. As discussed above, by adding odd-lot, depth of book, and auction information to core data, the proposed amendments would reduce information asymmetry between broker-dealers and other market participants who subscribe to proprietary data feeds and users of current SIP data. This could improve the ability of broker-dealers and other market participants who currently do not have access to this information to trade against those market participants who do. As a result, this could improve the efficiency with which they execute their orders by allowing them to select a better trading venue or method of executing their order. Furthermore, for market participants who currently rely on exclusive SIPs for their order executions, the reduction in latency provided by the decentralized consolidation model could reduce the risk that their orders are picked off, which could reduce their adverse selection costs. This could potentially reduce their transaction costs and allow them to more efficiently achieve their investment or trading objectives or those of their clients.[1133]

As discussed previously, the Commission preliminarily believes that there is some potential for new broker-dealers to become competitive in the market for sophisticated order execution as a result of this rule because they may be able to use the expanded content and lower latency of core data to develop SORs or other tools that allow them to compete more effectively with broker-dealers who currently base order execution decisions off of proprietary DOB data.[1134] To the extent that this happens, the clients of these broker-dealers could see their orders executed more efficiently and their execution costs reduced.

The current lack of certain odd-lot quote, depth of book, and auction information in SIP data could affect price efficiency. The gap in information between data provided by exclusive SIPs and proprietary data products may cause prices in some securities to be less efficient, *i.e.,* to deviate further from fundamental values, if market participants with access to proprietary data products do not incorporate this information into prices quickly enough through their trading or quoting activity. However, the Commission does not know the extent of this possible effect, but it preliminarily believes the effect could be larger in less actively traded securities where the gap in information between SIP data and proprietary data products is larger.

The Commission preliminarily believes that, to the extent that there is information in the new core data elements that is not currently reflected in market prices, the proposed amendments may improve price efficiency.[1135] In particular, the proposed introduction of odd-lot quote, depth of book, and auction information into core data could result in the information becoming impounded in prices more rapidly and accurately as a result of the more widespread dissemination of this information. As the Commission understands that the most sophisticated traders already have access to this information and likely already compete to profit from it, the Commission expects that the size of this gain in price efficiency would be small because this information is already impounded quickly into prices.

Finally, under the current rule, the exclusive SIPs operate like public utilities in their consolidation and distribution of the NMS stock data.[1136] The proposed changes would unbundle the data fees for consolidated market data from the fees for its consolidation and distribution.[1137] The decentralized consolidation model would subject the fees charged by competing consolidators for the consolidation and distribution of consolidated market data to competition. The Commission preliminarily believes that the proposed decentralized consolidation model would lead to consolidated market data being distributed in a more timely, efficient, and cost-effective manner. The Commission preliminarily believes that the proposed changes to the consolidation and distribution of consolidated data is economically similar to the restructuring of public utilities and may have an impact on the efficiency with which the consolidation and distribution is carried out. In particular, as discussed above, the proposed decentralized consolidation model is anticipated to produce better investment to lower costs and improve quality in the consolidation and distribution of consolidated market data, as well as promote better price competition (all of which translates into a more efficient allocation of capital)

[1130] *See supra* Section VI.C.1(b).

[1131] *Id.*

[1132] *Id.*

[1133] *Id.*

[1134] *See supra* Section VI.C.4(b).

[1135] *See supra* Section VI.B.2(a).

[1136] *See supra* note 390.

[1137] *See supra* Section VI.C.2(c).

than the bidding process currently in place.[1138]

The Commission acknowledges the uncertainty in this conclusion. The literature on the economics of restructuring of public utilities does not provide clear guidance. Some papers show efficiency gains from regulatory restructuring,[1139] yet others claim no efficiency gains or efficiency declines after regulatory restructuring of public utilities.[1140] The likely impact of the proposed changes rests on the strengths and weaknesses of the existing exclusive SIP model.

The Commission preliminarily believes that the existing exclusive SIP model has an important weakness: It does not provide sufficient competitive incentives.[1141] SIPs have significant market power in the market for core and aggregated market data products and, as a result, do not need to compete hard to capture demand for their products. The Commission preliminarily believes that the adoption of the decentralized consolidation model would open up the consolidation and distribution services to data consolidators that would need to vigorously compete to capture some demand for the data they provide. This need to compete for market share would create incentives to reduce costs. As discussed above, the Commission preliminarily believes that this competition could incentivize competing consolidators to pass on some of those cost savings to customers by charging lower service fees in order to capture market share.[1142] The focus to capture market share might also lead to technological improvements for competing consolidators to be able to differentiate themselves in the eyes of the customers and generate demand.[1143] The Commission preliminarily believes that these improvements in data provision technology and the introduction of competitive forces on fees for the consolidation and distribution of consolidated market data could result in a more efficient allocation of capital.

Additionally, the decentralized consolidation model could allow market participants to receive consolidated market data more efficiently. Instead of having to receive separate consolidated market data feeds from two exclusive SIP plan processors, UTP and CTA/CQ Plans, market participants would have the option to receive all of their consolidated market data from one competing consolidator.[1144] This could allow market participants to achieve efficiencies in the design and in making modifications to their systems for the intake of consolidated market data because they would only have to configure their systems to intake consolidated market data from one source.

2. Competition

As discussed previously, the Commission preliminarily believes this proposed rule would have a substantial impact on competition. The Commission preliminarily identifies seven markets or areas of the market for which the proposed rule would have a substantial impact on competition. The Commission acknowledges that the seven markets or areas may not be a comprehensive list of all markets or areas for which the proposed rule might have an impact on competition. However, the Commission preliminarily believes that competition in these seven markets or areas are most likely to be impacted substantially by the proposed rule. The Commission solicits comments regarding whether the proposed rule might have a substantial impact on competition in other markets or areas of the market.

First, the proposed rule introduces a competitive marketplace for the consolidation and dissemination of consolidated market data to replace the centralized consolidation model, which is not currently subject to competitive pressures.[1145] Under the proposed amendments multiple competing consolidators would be able to distribute consolidated market data to market participants. The Commission preliminarily believes that, since market participants could freely select the competing consolidator that charged the lowest distribution fee or offered better quality (*i.e.,* lower latency, a more reliable system, etc.), the competing consolidators would be subject to competitive forces and the marketplace for the consolidation and dissemination of proposed consolidated market data would be competitive if enough competing consolidators enter the market.[1146] As discussed above, the Commission preliminarily believes that this introduction of competition could reduce the prices competing consolidators charge for the consolidation and distribution of consolidated market data and improve the quality of consolidated market access.[1147] The Commission recognizes the risk that there could be too few competing consolidators to realize these benefits fully, in which case the proposed competitive changes may have a number of costs,[1148] including higher prices for the consolidation and dissemination of consolidated market data, which could increase the overall prices market participants pay for consolidated market data.[1149]

The Commission recognizes that the extension of Regulation SCI to include competing consolidators could impact competitive dynamics in the competing consolidator market. The Commission preliminarily believes the costs associated with being an SCI entity could raise the barriers to entry for firms seeking to become competing consolidators who are not already SCI entities, including market data aggregation firms.[1150] Exclusive SIPs and SROs who seek to become competing consolidators could gain a

[1138] *See id.*

[1139] *See, e.g.,* Kira R. Fabrizio et al., Do Markets Reduce Costs? Assessing the Impact of Regulatory Restructuring on US Electric Generation Efficiency, 97 a.m. ECON. REV. 1250 (2007).

[1140] *See, e.g.,* Severin Borenstein, The Trouble with Electricity Markets: Understanding California's Restructuring Disaster, 16 J. ECON. PERSP. 191 (2002).

[1141] *See supra* Section VI.B.3(a) (discussing SIPs market power).

[1142] *See supra* Section VI.C.2(b). However, the Commission also acknowledges the possibility that fees for the consolidation and distribution of consolidated market data may remain the same or increase, because consolidated market data will contain more information and/or there might not be enough competition among competing consolidators.

[1143] Several studies found evidence of efficiency gains and technological improvements from restructuring in the public utilities sector. In the electricity industry, for example, the introduction of competition to the electricity generation services created strong incentives to become more cost efficient and technologically advanced to improve operating performance. If a plant could not become efficient enough to compete, it would lose business and have to exit the market. Craig and Savage (2013) establish a 9% increase in efficiency in investor-owned electricity plants in response to the restructuring and increasing competition in the electricity sector. Similarly, Davis and Wolfram (2012) argue that electricity market restructuring is associated with a 10 percent increase in operating performance for nuclear plants generating electricity. The authors state that increasing competition led to managers focusing more attention on financial costs of outages. *See* J. Dean Craig and Scott J. Savage, Market Restructuring, Competition and the Efficiency of Electricity Generation: Plant-level Evidence from the United States 1996 to 2006, 34 ENERGY J. 1 (2013); Lucas W. Davis and Catherine D. Wolfram, Deregulation, Consolidation, and Efficiency: Evidence from US Nuclear Power, Am. Econ. J.: Applied Econ. (Oct. 2012), at 194.

[1144] The Commission acknowledges that market participants may subscribe to more than one competing consolidator for different core data products or as a backup feed.

[1145] *See supra* Sections IV.B.2, VI.B.3(a).

[1146] The Commission assumes that enough competing consolidators will enter the market in order to make it competitive. *See supra* Section VI.C.2(a).

[1147] *See supra* Sections VI.C.2(a), VI.C.2(b), VI.C.2(c).

[1148] *See supra* Sections VI.C.2(a), VI.C.2(d).

[1149] *See supra* Section VI.C.2(a).

[1150] *See supra* Sections VI.C.2(a)(i)b., VI.C.2(e)(ii).

competitive advantage over these firms because they would face lower barriers to entry since they are currently SCI entities and already incur many of these costs.[1151] Therefore, the extension of Regulation SCI to competing consolidators could result in fewer firms seeking to become competing consolidators which could lead to less competition in the competing consolidator market. Less competition and less innovation would reduce the incentives of competing consolidators to reduce the costs and improve the speed and quality of their consolidated market data aggregation and dissemination services.

Additionally, the Commission preliminarily believes that the public disclosure of the information in Form CC and the performance metrics and operational information competing consolidators would provide on their websites would enhance competition between competing consolidators.[1152] The public disclosure of competing consolidator fees and performance metrics would allow market participants to more easily compare competing consolidators and select the ones that charged the lowest fees or offered the best performance. This could enhance competition between competing consolidators. For example, if the public disclosures show that certain competing consolidators have higher fees or poor performance, it may result in those competing consolidators losing subscribers and earning lower revenues. Similarly, competing consolidators who display lower prices or superior system performance may be able to attract more subscribers and earn more revenue. This in turn could enhance competition by incentivizing competing consolidators to lower fees and/or innovate and make investments in their systems in order to improve system performance in order to attract more subscribers. In theory, the Commission acknowledges that the public disclosure of Form CC could harm competition by making firms reluctant to enter the competing consolidator market and reducing the incentives of competing consolidators to innovate if it discloses certain information that a competing consolidator might view as a ''trade secret'' or giving it a competitive advantage. However, the Commission believes that these effects are not likely to occur because it preliminarily believes that the disclosures on Form CC are not detailed enough to allow other market participants to reproduce a competing consolidator's ''trade secret.'' Additionally, the Commission preliminarily believes that the delayed public disclosure of material amendments to Form CC should prevent another competing consolidator from replicating a competing consolidator's innovations before it has a chance to implement them.[1153]

The Commission recognizes that the registration process for Form CC could create uncertainty about whether a Form CC would be declared ineffective. This could potentially harm competition in the market for competing consolidators by raising the barriers to entry and creating a disincentive for entities to become competing consolidators. However, the Commission preliminarily believes that these effects will not be significant because the Commission would not declare a Form CC ineffective without notice and opportunity for hearing. Additionally, entities whose Form CC is declared ineffective would still have the opportunity to file a new Form CC with the Commission.

The Commission considered the effect of the interaction between the proposal and the CAT NMS Plan on competition among competing consolidators, but believes that this interaction would not have a significant effect on the competitive landscape. In particular, the Commission considered two effects: First, the effect in the event that there is a bias toward an exchange-operated competing consolidator over other competing consolidators and second, any competitive advantage for the competing consolidator selected for the CAT NMS Plan. In relation to any bias, the Commission notes that the CAT NMS Plan would be only one of many potential customers of the competing consolidator, so this bias is not likely to affect the market unless the selection produces a competitive advantage. In particular, a competing consolidator could enjoy a competitive advantage only if broker-dealers believe that market surveillances would be less likely to appear to show violations if the broker-dealers made trading decisions using the same data used in SRO surveillances. However, the latency differences across the competing consolidators are likely to measure in the microseconds while the clock synchronization requirements for industry members in the CAT NMS Plan is 50 milliseconds for electronic order flow.[1154] Therefore, the Commission does not believe the CAT's choice of competing consolidator would confer any regulatory value on the competing consolidator or their broker dealer clients.

Second, the Commission preliminarily believes that the expanded content and reduced latency of consolidated market data would make it a more viable substitute for proprietary data feeds.[1155] The Commission preliminarily believes that this would increase competition between consolidated market data and exchange proprietary data feeds. These competitive pressures could lead to lower prices for proprietary data feeds and may reduce the data costs that market participants pay, at the expense of the SROs who charge the fees.[1156] The Commission recognizes the risk that the extension of Regulation SCI to include competing consolidators could lead to less competition in the competing consolidator market, which could reduce the incentives of competing consolidators to reduce the cost and improve the speed and quality of consolidated market data. If this occurs, it could make consolidated market data less of a viable substitute for proprietary data feeds, which would reduce the competitive pressures consolidated market data would impose on proprietary data feeds.

Third, the Commission preliminarily expects the new decentralized consolidation model for proposed consolidated market data to create competitors to market data aggregators for two reasons. First, the potential revenues from becoming a competing consolidator may cause new firms to enter the market for the consolidation and distribution of market data. Second, some market participants who currently use market data aggregators may switch to getting proposed consolidated market data from a competing consolidator. This could have two effects: The competition could lead to lower prices and higher quality in the market data aggregator business, but it could also lead to fewer market data aggregators if the competition from the proposed consolidated market data system makes it no longer viable for some market data aggregators to offer their services.[1157]

[1151] *See supra* Sections V.G.,ViC.2(a)(i)b.

[1152] *See supra* Section VI.C.3.

[1153] *See supra* Sections IV.B.2(e), VI.C.3.

[1154] *See* CAT NMS Plan, *supra* note 624, at Section 6.8.

[1155] However, consolidated market data would not be a perfect substitute for the proprietary data feeds because it would not contain all the information in proprietary data feeds. For example, the expanded core data would not include full depth of book information or information on all odd-lots. *See supra* Section VI.C.4.

[1156] *See supra* Section VI.C.4(a).

[1157] The Commission acknowledges that fewer competitors could decrease or increase efficiency in the market data aggregator business. On the one hand, fewer competitors could reduce the incentives for market data aggregators to innovate, which could reduce efficiency. On the other hand,

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The latter could lead to higher prices in the market data aggregator space.[1158] In addition, some of these market data aggregators may choose to become competing consolidators, which could have two effects: It could cause market data aggregators to leave the proprietary feed aggregation space thereby reducing the competition in that space, or it could cause market data aggregators to use the economies of scale and the additional profits they derive from being a competing consolidator to improve their offerings as a market data aggregator of proprietary feeds. Depending on which effect dominates, competition in the market data aggregator space could increase or decrease, which in turn could lead to lower or higher prices, respectively. The Commission recognizes that the extension of Regulation SCI to include competing consolidators could diminish the ability of market data aggregators who become competing consolidators to compete in the market data aggregator space. If a market data aggregator becomes a competing consolidator, the requirements of being an SCI entity could also extend to their aggregation of proprietary market data.[1159] These requirements could raise their costs, which could reduce their ability to compete with other market data aggregators that are not competing consolidators.

Fourth, the Commission preliminarily expects that the expanded content and reduced latency of core market data provided by this proposed rule may increase competition in the broker-dealer business by improving the ability of some broker-dealers who currently access core data to execute orders.[1160] It is the Commission's understanding that some broker-dealers that do not subscribe to all of the current proprietary DOB feeds rely solely on the exclusive SIPs today and that this makes them uncompetitive in the market for offering execution services to the most transaction-cost-sensitive market participants. The new decentralized consolidation model with expanded core data would reduce the latency and expand the information delivered to broker-dealers who subscribe to core data, possibly without raising data prices. This in turn would allow broker-dealers that subscribe to consolidated data to improve their order execution services and compete more effectively with broker-dealers who subscribe to proprietary DOB feeds. This would lead to greater competition between broker-dealers, which could benefit investors by resulting in lower prices for and higher quality of broker-dealer execution services.[1161]

Fifth, the Commission preliminarily believes that the proposed rule could affect competition between exchanges. As discussed above, the proposed enhancements to core data could increase competition between proposed consolidated market data and proprietary data feeds, which could lead to exchanges charging lower fees for proprietary market data.[1162] If these lower fees do not result in more subscribers to proprietary market data, it would lead to a decline in revenues from proprietary market data for SROs.[1163] Additionally, the proposed amendments could affect competition in the market for exchange data connectivity. If some current subscribers to proprietary market data decide to only receive consolidated market data from competing consolidators, they could also reduce the exchange connectivity services that they currently use. In turn, this could reduce the revenue that some exchanges earn from connectivity services. Additionally, new connectivity fees may be proposed for core data use cases, which could potentially increase or decrease the revenue exchanges earn from connectivity.[1164] It is the Commission's understanding that revenues from proprietary market data and connectivity services are a substantial portion of overall revenues for many exchanges.[1165] The Commission recognizes that it is possible that an exchange group could close some or all of its exchanges if the revenues from proposed consolidated market data did not increase and revenues from proprietary market data and connectivity services were to decline to a level that a given exchange or exchange group is no longer able to cover operating expenses. The Commission is unable to quantify the likelihood that an exchange will cease operating because it would depend on the fees and revenue allocation for consolidated market data. However, the Commission preliminarily believes that it is unlikely exchanges will be forced to leave the market.

Even if an exchange were to exit, the Commission does not believe this would significantly impact competition in the market for trading services because the market is served by multiple competitors, including off-exchange trading venues. Consequently, if an exchange were to exit the market, demand is likely to be swiftly met by existing competitors. The Commission recognizes that small exchanges may have unique business models that are not currently offered by competitors, but the Commission preliminarily believes a competitor could create similar business models if demand were adequate, and if they did not do so, it seems likely new entrants would do so if demand were sufficient.

Sixth, the Commission preliminarily believes that the proposed rule would affect competition between traders.[1166] The Commission preliminarily believes that traders will be affected differently based on the type of market data they use when making trading decisions. Traders who subscribe to different types of market data can broadly be grouped into three categories: (1) Traders who use proprietary DOB feeds received directly from the SROs and self-aggregate, (2) traders who use market data aggregators to aggregate proprietary DOB feeds, and (3) traders who use core data (currently from the exclusive SIPs and, under the proposed rule, competing consolidators).[1167] The Commission preliminarily believes that under the proposed rule the core data would be of higher quality, and thus the value to traders from acquiring proprietary DOB data would decrease.[1168] As a result, it would be harder for traders who use proprietary DOB feeds (both self-aggregators and traders who use market data aggregators) to generate profits and the competition between those traders would increase. For traders who use core data, the Commission believes that the

fewer competitors could also improve efficiency if the firms that exited the market did not aggregate market data as efficiently as the firms that remained.

[1158] As discussed above, consolidated market data would not be a perfect substitute for proprietary data feeds, so there would still be demand for proprietary data. Since not all firms aggregate proprietary data themselves, there would still be a demand for third-party aggregators to perform this function.

[1159] *See supra* Section VI.C.2(e)(ii).

[1160] *See supra* Section VI.C.4(b).

[1161] *See supra* Sections VI.B.3(e), VI.C.4(b).

[1162] *See supra* Section VI.C.4(a).

[1163] In addition to adjusting fees, SROs could also redesign their proprietary market data product lines to try and increase revenue. However, it is possible that demand for these new products would not be sufficient to offset the decline in revenues from proprietary market data.

[1164] *See supra* Section VI.C.4(a).

[1165] *See supra* Section VI.B.3(b).

[1166] In this context the term traders could refer to either proprietary traders executing orders on their own behalf or broker-dealers executing orders on behalf of their clients.

[1167] Traders who currently subscribe to proprietary DOB feeds may also subscribe to the exclusive SIPs as part of their backup systems. However, the Commission preliminarily believes that these traders primarily rely on proprietary DOB feeds when making trading decisions because proprietary DOB feeds contain more information and have lower latency than the exclusive SIPs.

[1168] *See supra* Section VI.C.4(a).

competition between those traders would increase because the proposed amendments would reduce the latency and expand the information included in core data, which would allow those traders to devise better trading strategies with bigger profit potential. The Commission preliminarily believes that the most substantial change in competition would occur between traders who use proprietary DOB feeds (both self-aggregators and traders who use market data aggregators) and traders who use core data. As described, the proposed rule expands the information and reduces the latency of core data, thereby closing the gap between core data and proprietary DOB feeds. This would allow traders who use core data to compete on a more level playing field with traders who use proprietary DOB feeds. The Commission preliminarily believes that this would lead to a transfer of profits from traders who use proprietary DOB feeds to traders who use proposed consolidated market data.

Seventh, the Commission preliminarily believes that the proposed rule changes would affect competition between off-exchange trading venues and exchanges in the market for trading services. As discussed above, the Commission preliminarily believes that the proposed amendments would reduce the latency of core data.[1169] This could improve the competitive positions of some off-exchange trading venues in the market for trading services. Off-exchange trading venues that currently rely on the exclusive SIPs to calculate the NBBO would benefit from the latency reductions in the distribution of core data provided by the competing consolidators.[1170] These venues would now receive a more timely view of the NBBO, which could improve the execution quality of trades that take place on these venues. This could make them more attractive venues to trade on and they could attract more order flow, from both exchanges and other off-exchange venues. Off-exchange trading venues that currently subscribe to proprietary data feeds could also see their competitive positions improve. If the new core data represents a viable alternative to the proprietary data feeds for their order executions, they could substitute core data for proprietary data, which could lower their costs. They might be able to pass along these cost reductions as reduced fees to subscribers, which could improve their competitive position relative to exchanges and other off-exchange trading venues. Reductions in the fees charged by these off-exchange trading venues could in turn potentially benefit investors if broker-dealers who subscribe to these venues passed along these cost savings by, in turn, reducing their fees.[1171]

3. Capital Formation

The Commission preliminarily believes the proposed amendments would have only a modest impact on capital formation. However, the Commission is unable to quantify the effects on capital formation because, as discussed above, it is unable to quantify the additional gains from trade and the effects of improvements in order routing that may be realized from the proposed amendments.[1172] However, in the section below the Commission provides a qualitative description of the effects it preliminarily believes the proposed amendments would have on capital formation and invites comments on the subject.

As discussed above, the Commission preliminarily believes that the addition of information about odd-lot quotes, depth of book, and auction information to core data may result in more voluntary trades occurring between market participants, which could lead to more efficient gains from trade.[1173] Improved gains from trade may result in a more efficient allocation of capital, which would improve capital formation.

Additionally, the Commission preliminarily believes that the proposed amendments would improve order execution for market participants who currently rely upon SIP data, which may lower their transaction costs.[1174] Lower transaction costs could reduce firms' cost of raising capital.[1175] This, in turn could improve capital formation.

4. Request for Comments on Impact on Efficiency, Competition, and Capital Formation

The Commission requests comments on its analysis of the impact of the proposed amendments on efficiency, competition, and capital formation. In particular, the Commission solicits comment on the following:

276. Do you agree with the Commission's analysis of the effects the proposed amendments might have on efficiency, competition and capital formation? Why or why not? Please explain in detail.

277. Do you believe the proposed amendments may have unintended consequences that are not captured by the Commission's analysis of the effects the proposed amendments may have on efficiency, competition and capital formation? Why or why not? Please explain in detail.

278. Do you agree that the proposed amendments would lead to gains from trade? Do you agree that the proposed amendments would improve the efficiency or order execution? Do you agree that the proposed amendments would improve price efficiency? Do you agree that the proposed amendments would improve the efficiency of how core data is distributed? Please explain.

279. To what extent does the gap in information between SIP data and proprietary DOB products affect price efficiency? Are these effects larger in less actively traded securities where the gap in information between SIP data and proprietary DOB products is larger? Please explain in detail.

280. Do you believe the proposed amendments would have effects on efficiency that the Commission has not recognized? Please explain in detail.

281. Do you agree with the Commission's analysis that the proposal will have a substantial impact on competition in several markets? In particular, do you agree that the decentralized consolidation model improves the competition in the market to distribute consolidated market data? Do you agree that the decentralized consolidation model creates more viable substitutes for proprietary exchange data? Do you agree that the proposal increases competition to provide smart order routing? Do you agree that the proposal could affect competition among exchanges to provide transaction services? Do you agree that the proposal could affect competition among traders? Do you agree that the proposal could affect competition among exchanges and off-exchange trading venues? Please explain in detail.

282. Do you agree that the public disclosure of Form CC and the performance metrics promote competition more than if such information were not disclosed? Please explain.

283. Do you agree that the extension of Regulation SCI to include competing consolidators could raise the barriers to entry for competing consolidators and reduce competition in the competing

[1169] *See supra* Section VI.C.2(c).

[1170] *Id.*

[1171] Broker-dealer subscribers could potentially pass along the cost savings from the reduction in off-exchange trading venue fees to investors either directly, if they reduced fees for investors who were clients of the broker-dealer, or indirectly, if they reduced fees for institutional clients, such as mutual funds, who, in turn, passed along the cost savings to their end investors.

[1172] *See supra* Sections VI.C.1(b), VI.D.1.

[1173] *See supra* Section VI.D.1.

[1174] *See supra* Sections VI.C.1(b), VI.D.1.

[1175] *See* Yakov Amihud and Haim Mendelson, Asset Pricing and the Bid—Ask Spread, 17 J. Fin. Econ. 223 (1986).

consolidator market? Why or why not? Please explain in detail.

284. Do you agree that the purchase of consolidated market data from a competing consolidator by the CAT would not have a significant effect on competition among competing consolidators? Why or why not? Please explain in detail.

285. Would the public disclosure of Form CC or the performance metrics risk revealing any trade secrets that could harm competition? Please explain.

286. Do you believe the proposed amendments would have effects on competition that the Commission has not recognized? Please explain in detail.

287. Do you agree that the proposal would only have a modest impact on capital formation? Why or why not? Please explain in detail.

288. Do you believe the proposed amendments would have effects on capital formation that the Commission has not recognized? Please explain in detail.

E. Alternatives

The Commission considered potential alternatives to the proposed amendments that broadly fall into two categories: Introduce the decentralized consolidation model and make alternative changes to the core data definition, and make changes in the core data definition as proposed in the amendments and consider alternative models of SIP competition.

1. Introduce Decentralized Consolidation Model With Additional Changes in Core Data Definition

The Commission considered an alternative that would introduce the decentralized consolidation model and expand core data more than the proposal does. For example, the Commission considered expanding core data to include information on quotations and aggregate size at all prices in the limit order book (''full depth of book'') in addition to the depth of book information contained in the proposal, *i.e.,* five price levels from the protected quotes.[1176] Alternatively, the Commission considered expanding core data to include information on all odd-lot sized quotes instead of only information on quotes at or above the proposed round lot size.[1177] Under both alternatives, the definition of a round lot for the purposes of determining the NBBO and a protected quote would remain the same as in the proposed amendments, which means the costs and benefits associated with the changes in the definition of the NBBO and protected quotes would be similar to the proposal.[1178]

Relative to the proposal, full depth of book information would provide market participants who currently do not access proprietary DOB feeds, as well as market participants who currently access proprietary DOB feeds and would have switched to using consolidated market data under the proposal, with additional information on liquidity provision across more price levels. To the extent that these market participants can utilize full depth of book information, the Commission preliminarily believes that this alternative could result in increased benefits to such market participants relative to the proposal.[1179] Certain commenters on the Roundtable stated that without full depth of book information, broker-dealers may not be able to provide best execution to their clients,[1180] indicating that full depth of book information would provide valuable information to market participants. However, as discussed above, the Commission preliminarily believes that the marginal benefit of including additional information on price levels further away from the best quotes may decrease as the price level moves away from the best quote because orders at these price levels are less likely to execute.[1181]

Relative to the proposal, the inclusion of full depth of book information in core data would increase the ability of market participants to use it as a substitute for proprietary DOB feeds.[1182] Currently, market participants interested in full depth of book data rely on proprietary DOB feeds offered by exchanges, which provide varying degrees of the depth of book information. To the extent that there are market participants who utilize full depth of book information via proprietary DOB feeds in trading, this alternative could increase the benefits for some of these market participants relative to the proposal by potentially reducing their data costs if they would switch to using core data under this alternative but would not have done so under the proposal. Subscribers of proprietary DOB feeds would realize these cost savings if they switched to receiving proposed consolidated market data through a competing consolidator or if they registered as a self-aggregator.[1183]

The Commission preliminarily believes that the alternative to include full depth of the book in core data would result in greater costs for exchanges than would the proposal. To the extent that the alternative results in fewer market participants subscribing to proprietary DOB data or purchasing connectivity services from the exchanges than under the proposal, exchanges' business for their proprietary feeds and connectivity services could be less profitable.[1184] Additionally, to the extent that not all exchanges sell full depth of book, certain exchanges would incur additional costs to set up systems and produce full depth of book information to be included in the core data. However, the Commission is unable to quantify this cost because it lacks information on the modifications exchanges would need to make to their systems in order to provide full depth of book information, but the Commission invites comments on the issue.

Compared to the proposal, this alternative could result in additional costs for competing consolidators to create infrastructure and expand capacity to distribute full depth of book information.[1185] The costs are likely to vary substantially according to the existing infrastructure of the entity seeking to be a competing consolidator. The Commission preliminarily believes that these incremental costs for market data aggregators and existing exclusive SIPs will be small, because they already work with proprietary DOB data. However, the Commission invites comments on the issue.

Additionally, including full depth of book information would require market participants who subscribed to core data and wished to receive the additional depth of book information to make more extensive upgrades to their systems than

[1176] *See supra* Section III.C.2.

[1177] *See supra* Section III.C.1.

[1178] *See supra* Section VI.C.1(c).

[1179] This alternative could increase costs relative to the proposal for market participants that access full depth of book information and execute trading that earn profits at the expense of other market participants who do not access this information. As discussed above, this cost would represent a partial transfer from traders who currently have access to depth of book to those who do not. *See supra* Section VI.C.1(b)(iv).

[1180] *See supra* notes 284–285.

[1181] *See supra* Sections VI.C.1(b)(ii), III.C.2.

[1182] Including full depth of book information in core data would not make it a perfect substitute for all proprietary DOB feeds. For example, some proprietary DOB feeds contain more detailed information than full depth of information, such as messages on individual orders.

[1183] *See supra* Section VI.C.2(b).

[1184] More broadly, this could have differential effects between exchanges who derive significant revenue from proprietary data feeds and those who derive significant revenue primarily from SIP revenue. These effects would also depend on the NMS plan(s) fees for consolidated market data as well as their method for allocating revenue received from consolidated market data among the SROs. *See supra* Section VI.C.4(a).

[1185] *See supra* Section VI.C.2(d).

under the proposal. However, the Commission is unable to estimate the associated costs because it does not have access to information about the infrastructure expenses a market participant incurs to process market data and because of the likelihood that such costs vary substantially according to the existing infrastructure of the market participant, but the Commission invites comments on the issue. To the extent that some market participants who subscribe to the exclusive SIPs do not need full depth of book information, they would not need to expand their own proprietary technology or that of a third-party vendor to process the full depth of the book data. Therefore, this alternative would not result in additional costs for these market participants compared to the proposal.

In addition to the alternative of adding full depth of book information, the Commission also considered expanding core data to include information on all odd-lot sized quotes instead of only information on quotes at or above the proposed round lot size.[1186] The proposed rule is specifically designed to leave out odd-lot quotes for low priced stocks. Under this alternative, market participants who subscribe to core data would have odd-lot information for low priced stocks. Furthermore, compared to the proposal, this alternative would provide market participants who subscribe to core data with more detailed information about at which prices odd-lot liquidity exists (*i.e.,* instead of rolling up odd-lot quotes at different prices to the highest price) for higher priced stocks. To the extent that market participants who currently do not have access to this information utilize the more detailed odd-lot information in order routing and execution, this alternative could improve their execution quality relative to the proposal.[1187] However, as discussed above,[1188] Commission and commenter analysis shows that there is a higher percentage of odd-lot trades in higher priced stocks. This could imply that there are fewer odd-lot quotes present in low priced stocks, which could mean that the marginal benefit of including odd-lot information in low priced stocks may be smaller than including it in stocks with higher prices.

The Commission preliminarily believes that the inclusion of all odd-lot data would not significantly change the processing costs for competing consolidators relative to the proposal. Under the current proposal, competing consolidators would already be processing all odd-lot data in order to calculate exchange round lot BBOs and the round lot NBBO that would be contained in the proposed core market data. Competing consolidators may incur some additional infrastructure expenses in order to disseminate the additional message volume associated with all odd-lot information to market participants. These costs are likely to vary according to the existing infrastructure of the entity seeking to be a competing consolidator, but the Commission preliminarily believes that these additional infrastructure costs are likely to be small.[1189] However, the Commission invites comments on the issue.

Additionally, the Commission preliminarily estimates that market participants and data vendors would need to make additional upgrades to their systems beyond the proposal in order to receive the additional odd-lot data. However, the Commission does not have access to information about the infrastructure expenses a market participant incurs to process market data and because of the likelihood that such costs vary substantially according to the existing infrastructure of market participants, but the Commission invites comments on the issue.

2. Introduce Changes in Core Data and Introduce a Distributed SIP Model

The Commission considered an alternative that would expand the core data as proposed and would introduce a distributed SIP model whereby the current exclusive SIP processors would establish multiple instances of their systems in multiple data centers.[1190] As some commenters and panelists suggested at the Roundtable,[1191] this alternative would achieve a similar reduction in exclusive SIP geographic latency to the proposal by allowing firms to consume data under the current structure without making any changes or to consume data at the nearest exclusive SIP instance depending on the firms' latency concerns. However, this alternative would still provide exclusive rights to one operator to provide exclusive SIP services for a given tape.

This Commission preliminarily believes that this alternative would produce lower benefits compared to the proposed decentralized consolidation model.[1192] Under this alternative, the exclusive SIPs would not be subject to the same competitive forces that competing consolidators may be subject to under the decentralized consolidation model.[1193] This lack of competition would reduce the incentives to innovate and would not improve efficiency or reduce the transmission and aggregation latencies of core data as much as the proposal. If core data does not achieve the same overall latency reduction as under the proposal, then market participants would be less likely to substitute using core data for proprietary data than they would be under the proposal. This could mean that the decline in profits from exchanges' proprietary data fees may not be as large as they would be under the proposal.[1194]

Under this alternative, the exclusive SIPs would still need to make upgrades to their systems to account for the expansion of core data and would still need to install systems in multiple data centers. The Commission preliminarily believes that the costs of these SIP system upgrades would be similar to those under the proposal.[1195] However, under this alternative, market participants may experience higher costs to access core data compared to the proposal. Instead of having the option to receive all core data from one competing consolidator, as they would under the proposal, market participants would still need to receive data from both exclusive SIP plan processors.[1196] This means that under this alternative, the total price market participants would pay to access core data may be greater than under the proposal because it would include the costs of the two plan processors to aggregate and transmit the data. Under the proposal, the total price market participants would pay to receive core data may only include the costs of one processor, because market participants would have the option to receive all of their core data from one competing consolidator.[1197]

[1186] *See supra* Section III.C.1.

[1187] This alternative could increase costs relative to the proposal for market participants that access all odd-lot quotes and execute trading that earn profits at the expense of other market participants who do not access this information. As discussed above, this cost would represent a partial transfer from traders who currently have access to all odd-lot quotes to those who do not. *See supra* Section VI.C.1(b)(iv).

[1188] *See supra* note 178 and accompanying text.

[1189] *See supra* Section VI.C.2(d).

[1190] *See also* a discussion about a single SIP alternative, *supra* Section IV.C.2.

[1191] *See supra* Section IV.C.1(a).

[1192] *See supra* Sections VI.C.2, IV.C.1.

[1193] *See supra* Sections VI.C.2, VI.D.2.

[1194] *See supra* Section VI.C.4(a).

[1195] *See supra* Section VI.C.2(d).

[1196] *See supra* Section VI.B.2.

[1197] *See supra* Section VI.C.2(c).

3. Require Competing Consolidators' Fees B e Subject to the Commission's Approval

The Commission considered an alternative to the decentralized consolidation model that would require competing consolidators' fees to be subject to the Commission's regulatory approval.

The Commission preliminarily believes that, relative to the proposal, this alternative would potentially reduce the risk and uncertainty surrounding the total price of consolidated market data. This alternative would provide for Commission review and approval of the fees of competing consolidators. Therefore, compared to the proposal, this alternative could reduce the risk that market participants are exposed to unreasonable fees, which could reduce the risk that some market participants or data vendors would no longer provide services in the equity market because the price of consolidated market data becomes too high.[1198]

The Commission preliminarily believes, however, that this alternative would impose additional regulatory burdens on the competing consolidator business compared to the proposal, and may inhibit competing consolidators from being able to respond effectively and quickly to free market forces. These burdens would reduce the incentive for firms to become competing consolidators and lead to less robust competition in the decentralized consolidation model than under the proposal.[1199] With less competitive forces to discipline competing consolidators' service fees, competing consolidators' would have less incentive to innovate in their consolidating business. Moreover, less competing consolidators in the market would reduce the extent to which the pricing is based on market forces.

4. Do Not Extend Regulation SCI To Include Competing Consolidators

The Commission considered an alternative that would not extend Regulation SCI to include competing consolidators. Under this alternative, the Commission would have required competing consolidators to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems involved in the collection, consolidation, and dissemination of consolidated market data have levels of capacity, integrity, resiliency, availability, and security adequate to maintain operational capability and to assure the prompt, accurate, and reliable delivery of consolidated market data. These policies and procedures could address, among other things, data security and integrity; reasonable current and future capacity estimates; business continuity and disaster recovery plans; periodic capacity stress tests of critical systems; procedures to review and keep current system development and testing methodology; periodic reviews to assess the vulnerability of its systems and operations to internal and external threats, physical hazards, and natural disasters; and an annual independent audit to ensure that these requirements are satisfied, together with a review by senior management of a report containing the commendations and conclusions of the independent review. The Commission preliminarily believes that this alternative would reduce some of the benefits as well as some of the costs compared to extending Regulation SCI to include competing consolidators.[1200]

The Commission preliminarily believes that this alternative could result in some competing consolidators producing systems that would be less secure and resilient than they would be under the proposed amendments because they would not be subject to all of the requirements of being an SCI entity.[1201] If competing consolidators produce less secure and resilient systems compared to if they were SCI entities, then there could be a greater risk of more market disruptions due to systems issues in competing consolidators compared to the proposed amendments.[1202] Additionally, if a competing consolidator does experience a systems issue, it could result in more severe and longer disruptions compared to the proposed amendments. However, the increase in competing consolidator systems issues compared to the proposal may not be significant. Under this alternative, competing consolidators would still have to establish policies and procedures to ensure that their systems have levels of capacity, integrity, resiliency, availability, and security adequate to maintain operational capability. They would also still need to post information on systems issues on their websites as well as monthly reports containing statistics on their capacity and systems availability.[1203] This would place competitive pressure on competing consolidators to ensure that their systems are reliable and resilient. Otherwise, they could lose subscribers to competing consolidators that had more reliable and resilient systems.

The Commission preliminarily believes that this alternative would result in lower costs for some competing consolidators compared to the proposed amendments. Under this alternative, competing consolidators would not incur the costs that are associated with SCI entities that are discussed above.[1204] Instead, the Commission preliminarily estimates that requiring a competing consolidator to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems involved in the collection, consolidation, and dissemination of consolidated market data have levels of capacity, integrity, resiliency, availability, and security adequate to maintain operational capability and to assure the prompt, accurate, and reliable delivery of consolidated market data would require an average initial expense of $68,710 per competing consolidator.[1205] The Commission based these estimates upon those it used with regards to establishing similar policies and procedures for Security-Based Swap Data Repository Registration, Duties and Core Principles.[1206] Once these policies and procedures are established, the Commission preliminarily estimates that, on average, a competing consolidator will incur an ongoing cost of $21,810 annually to maintain these policies and procedures.[1207]

[1198] *See supra* Section VI.C.2(d).

[1199] *See supra* Section VI.C.2(a).

[1200] *See supra* Section VI.C.2(e).

[1201] *See supra* Section VI.C.2(e)(i).

[1202] *Id.*

[1203] *See supra* Section VI.C.3(a).

[1204] *See supra* Section VI.C.2(e)(ii).

[1205] The Commission estimates a total of 210 initial burden hours per competing consolidator. The Commission estimates a total monetized initial burden of $68,710 per competing consolidator. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Compliance Manager at $310 for 80 hours) + (Attorney at $417 for 80 hours) + (Sr. Systems Analyst at $285 for 25 hours) + (Operations Specialist at $137 for 25 hours)] = 210 initial burden hours per competing consolidator and $68,710.

[1206] *See* Securities Exchange Act Release No. 74246, *supra* note 554, at 14523; 17 CFR 242.13n–6.

[1207] The Commission preliminarily estimates that it will take, on average, 60 annual hours to maintain these policies and procedures per competing consolidator. The Commission estimates the monetized burden for this requirement to be $21,810. The Commission derived this estimate based on per hour figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead: [(Compliance Manager at $310 for 30 hours) +

The Commission preliminarily believes that, compared to the proposed amendments, this would lower the barriers to entry for new competing consolidators who are not currently SCI entities, including market data aggregators.[1208] This could result in more firms becoming competing consolidators and could increase competition in the competing consolidator market compared to the proposal. Increased competition could lower the costs and increase the speed and quality of consolidated market data compared to the proposed amendments. This, in turn, could make consolidated market data a more viable substitute for proprietary data feeds and result in greater competition between consolidated market data and proprietary data feeds compared to the proposed amendments.

5. Require Competing Consolidators To Submit Form CC in the EDGAR System Using the Inline XBRL Format

The Commission considered the alternative of requiring competing consolidators to submit Form CC using the Commission's EDGAR system and using the Inline XBRL format. Requiring this could create benefits for market participants by enabling more efficient retrieval, aggregation and analysis of disclosed information and facilitating comparisons across competing consolidators. This alternative also could allow a competing consolidator to efficiently benchmark key aspects of its operations (*e.g.,* operational capabilities or fee structures) against the rest of the potential competing consolidator population. However, the benefits to market participants of efficient aggregation and comparison and the benefits to potential competing consolidators of efficient benchmarking depend on the number of competing consolidators that ultimately register with the Commission, which we estimate to be relatively low at twelve.

Additionally, many potential competing consolidators may not be familiar with Inline XBRL and thus could incur increased costs if they need to learn Inline XBRL compared to the proposal's requirement to submit Form CC and various exhibits through EFFS—a system with which we believe many potential competing consolidators are already familiar. However, to the extent that potential competing consolidators already have experience filing information in EDGAR in an XML format, costs associated with learning a new system and format may be mitigated. We request comment on the specific benefits and costs of filing Form CC in EDGAR using the Inline XBRL format.

6. Require Competing Consolidators To Submit Monthly Disclosures in the EDGAR System Using the Inline XBRL Format

The Commission considered the alternative of requiring competing consolidators to submit their monthly performance metrics and operational information using the Commission's EDGAR system and using the Inline XBRL format. This alternative could create benefits for market participants by having the monthly information of each competing consolidator in a centralized location. Additionally, it could allow for more efficient retrieval, aggregation and analysis of disclosed information and facilitate comparisons across competing consolidators and time periods. To the extent there are a small number of potential competing consolidators, the magnitude of such benefits would be reduced.

Additionally, competing consolidators would incur increased costs to file the information with the Commission compared to the proposal's requirement to post the monthly information on the competing consolidator's website in any format. The difference in costs would likely vary across competing consolidators, depending on the systems and processes they currently have in place, such as for internal reporting, posting of website updates, and submission of regulatory filings, and the manner in which competing consolidators currently maintain data required for the additional disclosures.

In addition, similar to submitting Form CC information on EDGAR using the Inline XBRL format, competing consolidators may need to learn Inline XBRL. We request comment on the specific benefits and costs of filing the monthly disclosures in EDGAR using the Inline XBRL format.

7. Prescribing the Format of NMS Information

The Commission considered an alternative in which it would prescribe a single format that SROs would use to provide NMS information to competing consolidators and self-aggregators. Each SRO would still be required to make all methods of access available to competing consolidators and self-aggregators as such SRO makes available to any other person.[1209] Each SRO would still be able to offer proprietary data products in other formats.

By prescribing the format, the Commission could better ensure consistency of the data. Compared to the proposal, a standard format could reduce the costs for competing consolidators and self-aggregators to aggregate the data to create consolidated market data. However, the Commission preliminarily believes that these costs may not be significantly reduced. As discussed above, the SROs currently use a variety of formats for their proprietary data feeds and some broker-dealers, market data aggregators, and the SIPs are already adept and experienced in aggregating and normalizing the data across different formats.[1210] Therefore, some potential competing consolidators and self-aggregators may not experience significant cost reductions relative to the proposal if the Commission required that SROs provide NMS information in a prescribed format.

Requiring a single format for SROs to deliver NMS information to competing consolidators and self-aggregators would also increase the costs to SRO's compared to the proposal. SROs would incur a greater cost to conform their existing data to a format they do not already use. It could also increase the costs of exchanges making future changes to their data because they may need to make alterations to both their proprietary data products and to data in the standard format they would supply to competing consolidators and self-aggregators, assuming the changes would need to be included in consolidated market data. Additionally, compared to the proposal, this increased cost could reduce the likelihood that the effective NMS plan(s) for NMS stocks or SROs introduce additional elements into consolidated data in the future.[1211]

Requiring the SROs to deliver data to competing consolidators and self-aggregators in a single format could also impact the latency between consolidated market data and aggregated proprietary DOB feeds. On the one hand, receiving all of the data in a single format should expedite the aggregation and normalization process for consolidated data. This could potentially reduce the latency differential between consolidated market data and aggregated proprietary data feeds compared to the proposal. However, it is possible that the format of certain proprietary data feeds may allow for faster aggregation initially than the single format specified by the Commission because of certain SROs'

(Attorney at $417 for 30 hours)] = 60 annual burden hours per competing consolidator and $21,810.

[1208] *See supra* Sections VI.C.2(a)(i)b., VI.D.2.

[1209] *See supra* note 428.

[1210] *See supra* Section VI.B.2(b).

[1211] *See supra* Sections III.C, III.D.

existing familiarity with its format. If this occurred, it could increase the latency differential compared to the proposal.

In addition, if the SROs are required to transform their existing data to a different format, it could hinder the timeliness of the data competing consolidators receive compared to data delivered via the proprietary feeds. Any changes in the timeliness with which the competing consolidators receive the data or any difference in latency between consolidated core data and proprietary data feeds would affect the viability of consolidated core data as a substitute for proprietary data feeds and affect many of the benefits of the decentralized consolidation model.[1212] If the latency differential is reduced, more market participants may substitute consolidated market data for proprietary data feeds and the benefits of the decentralized consolidation model could increase compared to the proposal. If competing consolidators receive less timely data or the latency differential increases, fewer market participants would switch to consolidated market data and the benefits would be smaller than under the proposal.

8. Request for Comments on Alternatives

The Commission requests comments on its analysis of alternatives to the proposed amendments. In particular, the Commission solicits comment on the following:

289. Should the Commission adopt an alternative approach? Why or why not? What alternatives should the Commission consider? What are the benefits and costs of such an approach? Please explain in detail.

290. Do you agree with the Commission's analysis of the alternative to further increase the content of core data to include the full depth of book and/or all odd-lot quotes? Would additional depth of book information, beyond what is include in the proposal, be valuable? Why or why not? How much larger would consolidated market data be if it included the full depth of book and/or all odd-lots? How much larger than the proposal would the costs of this alternative be for exchanges, competing consolidators, and other market participants? Please provide estimates, if possible.

291. Do you agree with the Commission's analysis of the distributed SIP alternative? Why or why not? Please explain. How would the competitive effects of the distributed SIP alternative compare to the competitive effects of the proposed decentralized consolidated model? As such, how would the benefits of the distributed SIP model compare to the benefits of the decentralized consolidation model? How would the costs of the distributed SIP model compare to the costs of the decentralized consolidation model? How would the distributed SIP model affect aggregate data fees paid by market participants for market data? How would the distributed SIP model affect the types of products and services available to purchase consolidated data?

292. Do you agree with the Commission's analysis of the relative economic effects of the alternative to not extend Regulation SCI to include competing consolidators? Why or why not? Please explain. Would this alternative increase the risk of a competing consolidator experiencing a system disruption? If so, how economically significant would this increase be? Would this alternative lower the barriers to entry for competing consolidators compared to the proposed amendments? Would this alternative result in more new competing consolidators? Would this alternative increase competition among competing consolidators? Would this alternative increase innovation in the competing consolidator market? Would this alternative increase competition between consolidated market data and proprietary depth of book feeds? Please explain and provide estimates if possible.

293. Do you agree with the Commission's analysis of the relative economic effects of the alternative to require that competing consolidator fees be subject to Commission approval? Why or why not? Please explain. Should the Commission be concerned that the proposal does not require an approval process for competing consolidators' market data fees? What is the risk and how large is that risk? Would the alternative reduce this risk? If so, how economically significant would this reduction be? How burdensome would it be for competing consolidators to have to obtain Commission approval for their fees? Please explain and provide cost estimates if possible.

294. Do commenters agree with the Commission's analysis of the alternative to require all disclosures be filed in the EDGAR system using the Inline XBRL format? Why or why not? Please explain in detail. Would the alternative further help market participants evaluate and compare the merits of competing consolidators? Would the alternative promote consistency relative to the proposal? Would the disclosures be more accessible in EDGAR than if they were on the Commission's website or on competing consolidators' websites? Please explain in detail. What are the costs of using EDGAR and the Inline XBRL format relative to the proposal? Please explain and provide estimates if possible.

295. Do you agree with the Commission's analysis of the relative economic effects of the alternative in which the Commission would prescribe a single format that SROs would use to provide NMS information to competing consolidators and self-aggregators? Why or why not? Please explain. What effects would the Commission prescribing NMS information be provided in a single format have on the costs of SROs, competing consolidators, and self-aggregators? How economically significant would these effects be? What effects would the alternative have on the latency of consolidated market data compared to aggregated proprietary data feeds? What effects would the alternative have on the timeliness of the data competing consolidators and self-aggregators would receive? Please explain and provide estimates if possible.

296. Are there other reasonable alternatives for the proposed amendments to Regulation NMS to update the content of the consolidated market data and introduce competition into the distribution of that consolidated market data? If so, please provide additional alternatives and how their costs and benefits, as well as their potential impacts on the promotion of efficiency, competition, and capital formation, would compare to the impact of the proposed amendments.

297. Is the competing consolidator approach necessary to achieve the economic benefits of the proposal related to expanding consolidated market data? Are there alternatives to the decentralized consolidation model with competing consolidators that would achieve the Commission's objectives at lower cost? If so, how would their costs and benefit compare to the proposed decentralized consolidation model? Please explain and provide estimates if possible.

F. Request for Comments on the Economic Analysis

The Commission is sensitive to the potential economic effects, including the costs and benefits, of the proposed amendments to Regulation NMS to update the content of core data and introduce the decentralized consolidation model into the distribution of consolidated market data. The Commission has identified

[1212] *See supra* Section VI.C.2(c).

above certain costs and benefits associated with the proposal and requests comment on all aspects of its preliminary economic analysis, including with respect to the specific questions posed above. The Commission encourages commenters to identify, discuss, analyze, and supply relevant data, information, or statistics regarding any such costs or benefits.

VII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''),[1213] the Commission requests comment on the potential effect of the proposed amendments on the United States economy on an annual basis. The Commission also requests comment on any potential increases in costs or prices for consumers or individual industries, and any potential effect on competition, investment, or innovation. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

VIII. Regulatory Flexibility Certification

The Regulatory Flexibility Act (''RFA'') [1214] requires Federal agencies, in promulgating rules, to consider the impact of those rules on small entities. Section 603(a) [1215] of the Administrative Procedure Act,[1216] as amended by the RFA, generally requires the Commission to undertake a regulatory flexibility analysis of all proposed rules, or proposed rule amendments, to determine the impact of such rulemaking on ''small entities.'' [1217] Section 605(b) of the RFA states that this requirement shall not apply to any proposed rule or proposed rule amendment which, if adopted, would not have a significant economic impact on a substantial number of small entities.[1218]

The proposed rule would apply to national securities exchanges registered with the Commission under Section 6 of the Exchange Act, national securities associations registered with the Commission under Section 15A of the Exchange Act, and competing consolidators. None of the exchanges registered under Section 6 that would be subject to the proposed amendments are ''small entities'' for purposes of the RFA.[1219] There is only one national securities association, and the Commission has previously stated that it is not a small entity as defined by 13 CFR 121.201.[1220] For purposes of the Commission rulemaking in connection with the RFA [1221] as it relates to competing consolidators, a small entity includes a SIP that ''(1) Had gross revenues of less than $10 million during the preceding fiscal year (or in the time it has been in business, if shorter); (2) Provided service to fewer than 100 interrogation devices or moving tickers at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and (3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization under this section.'' [1222] The Commission preliminarily believes that no competing consolidators would be ''small entities'' for purposes of the RFA.

For the above reasons, the Commission certifies that the proposed amendments to Rules 600 and 603 and the new Rule 614, if adopted, would not have a significant economic impact on a substantial number of small entities for purposes of the RFA.

The Commission invites commenters to address whether the proposed rules would have a significant economic impact on a substantial number of small entities, and, if so, what would be the nature of any impact on small entities. The Commission requests that commenters provide empirical data to support the extent of such impact.

IX. Statutory Authority

Pursuant to the Exchange Act, and particularly Sections 3(b), 5, 6, 11A, 15, 17, and 23(a) thereof, 15 U.S.C. 78c, 78e, 78f, 78k–1, 78o, 78q, and 78w(a), the Commission proposes to amend Sections 240.3a51–1, 240.13h–1, 242.105, 242.201, 242.204, 242.600, 242.602, 242.603, 242.611, and 242.1000 of Chapter II of Title 17 of the Code of Federal Regulations and proposes Rule 614, as set forth below.

List of Subjects

17 CFR Part 240

Brokers, Dealers, Registration, Securities.

17 CFR Part 242 and 249

Brokers, Reporting and recordkeeping requirements, Securities.

For the reasons stated in the preamble, the Commission is proposing to amend title 17, Chapter II of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78o, 78o–4, 78o–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78ll, 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7201 *et seq.,* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111–203, 939A, 124 Stat. 1376, (2010); and Pub. L. 112–106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

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§ 240.3a51–1 [Amended].

■ 2. In § 240.3a51–1, amend paragraph (a) by removing the text ''§ 242.600(b)(48)'' and adding in its place ''§ 242.600(b)(55)''.

§ 240.13h–1 [Amended].

■ 3. In § 240.13h–1, amend paragraph (a)(5) by removing the text ''§ 242.600(b)(47)'' and adding in its place ''§ 242.600(b)(54)''.

PART 242—REGULATIONS M, SHO, ATS, AC, NMS, AND SBSR AND CUSTOMER MARGIN REQUIREMENTS FOR SECURITY FUTURES

■ 4. The authority citation for part 242 continues to read as follows:

Authority: 15 U.S.C. 77g, 77q(a), 77s(a), 78b, 78c, 78g(c)(2), 78i(a), 78j, 78k–1(c), 78l, 78m, 78n, 78o(b), 78o(c), 78o(g), 78q(a),

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[1213] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C., and as a note to 5 U.S.C. 601).

[1214] 5 U.S.C. 601 *et seq.*

[1215] 5 U.S.C. 603(a).

[1216] 5 U.S.C. 551 *et seq.*

[1217] Although Section 601(b) of the RFA defines the term ''small entity,'' the statute permits agencies to formulate their own definitions. The Commission has adopted definitions for the term ''small entity'' for purposes of Commission rulemaking in accordance with the RFA. Those definitions, as relevant to this proposed rulemaking, are set forth in Rule 0–10, 17 CFR 240.0–10.

[1218] *See* 5 U.S.C. 605(b).

[1219] *See* 17 CFR 240.0–10(e). Paragraph (e) of Rule 0–10 states that the term ''small business,'' when referring to an exchange, means any exchange that has been exempted from the reporting requirements of Rule 601 of Regulation NMS, 17 CFR 242.601, and is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in Rule 0–10. Under this standard, none of the exchanges subject to the proposed amendment to Rule 608 is a ''small entity'' for the purposes of the RFA. *See also* Securities Exchange Act Release Nos. 82873 (Mar. 14, 2018), 83 FR 13008, 13074 (Mar. 26, 2018) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Proposed Rule); 55341 (May 8, 2001), 72 FR 9412, 9419 (May 16, 2007) (File No. S7–06–07) (Proposed Rule Changes of Self-Regulatory Organizations Proposing Release).

[1220] *See, e.g.,* Securities Exchange Act Release No. 62174 (May 26, 2010), 75 FR 32556, 32605 n.416 (June 8, 2010) (''FINRA is not a small entity as defined by 13 CFR 121.201.'').

[1221] *See supra* note 1217.

[1222] 17 CFR 240.0–10(g).

78q(b), 78q(h), 78w(a), 78dd–1, 78mm, 80a–23, 80a–29, and 80a–37.

§ 242.105 [Amended].

■ 5. Amend § 242.105 by:
■ a. In paragraph (b)(1)(i)(C) removing the text ''§ 242.600(b)(23)'' and adding in its place ''§ 242.600(b)(29)'' and
■ b. In paragraph (b)(1)(ii) removing the text ''§ 242.600(b)(68)'' and adding in its place ''§ 242.600(b)(76)''.

§ 242.201 [Amended].

■ 6. Amend § 242.201 by:
■ a. In paragraph (a)(1) removing the text ''§ 242.600(b)(48)'' and adding in its place ''§ 242.600(b)(55)'';
■ b. In paragraph (a)(2) removing the text ''§ 242.600(b)(23)'' and adding in its place ''§ 242.600(b)(29)'';
■ c. Amending paragraph (a)(3) by removing the text ''the term ''listing market'' as defined in the effective transaction reporting plan for the covered security'' and adding in its place ''the term ''primary listing exchange'' as defined in § 242.600(b)(67)'';
■ d. In paragraph (a)(4) removing the text ''§ 242.600(b)(43)'' and adding in its place ''§ 242.600(b)(50)'';
■ e. In paragraph (a)(5) removing the text ''§ 242.600(b)(51)'' and adding in its place ''§ 242.600(b)(58)'';
■ f. In paragraph (a)(6) removing the text ''§ 242.600(b)(59)'' and adding in its place ''§ 242.600(b)(66)'';
■ g In paragraph (a)(7) removing the text ''§ 242.600(b)(68)'' and adding in its place ''§ 242.600(b)(76)''; and
■ h. In paragraph (a)(9) removing the text ''§ 242.600(b)(82)'' and adding in its place ''§ 242.600(b)(93)''.
■ i. Amending paragraph (b)(1)(ii) by removing the text ''by a plan processor'';
■ j. Amending paragraph (b)(3) by removing the text ''notify the single plan processor responsible for consolidation of information for the covered security pursuant to § 242.603(b). The single plan processor must then disseminate this information'' and adding in its place ''make such information available as provided in § 242.603(b)''.

§ 242.204 [Amended].

■ 7. In § 242.204, paragraph (g)(2) is amended by removing the text ''§ 600(b)(68) of Regulation NMS (17 CFR 242.600(b)(68))'' and adding in its place ''§ 600(b)(76) of Regulation NMS (17 CFR 242.600(b)(76))''.
■ 8. Amend § 242.600 by:
■ a. Redesignating paragraphs (b)(72) through (87) as paragraphs (b)(83) through (98);
■ b. Adding new paragraphs (b)(81) and (82);
■ c. Redesignating paragraphs (b)(69) through (71) as paragraphs (b)(78) through (80);
■ d. Adding new paragraph (b)(77);
■ e. Redesignating paragraphs (b)(60) through (68) as paragraphs (b)(68) through (76);
■ f. Adding new paragraph (b)(67);
■ g. Redesignating paragraphs (b)(26) through (59) as paragraphs (b)(33) through (66);
■ h. Adding new paragraph (b)(32);
■ i. Redesignating paragraphs (b)(20) through (25) as paragraphs (b)(26) through (31);
■ j. Adding new paragraph (b)(25);
■ k. Redesignating paragraphs (b)(16) through (19) as paragraphs (b)(21) through (24);
■ l. Adding new paragraphs (b)(19) and (20);
■ m. Redesignating paragraphs (b)(14) and (15) as paragraphs (b)(17) and (18);
■ n. Adding new paragraph (b)(16);
■ o. Redesignating paragraphs (b)(4) through (13) as paragraphs (b)(6) through (15);
■ p. Adding new paragraph (b)(5);
■ q. Redesignating paragraphs (b)(2) and (3) as paragraphs (b)(3) through (4);
■ r. Adding new paragraph (b)(2); and
■ s. Revising newly redesignated paragraphs (b)(50) and (69).

The additions and revisions read as follows:

§ 242.600 NMS security designation and definitions.

(b) * * *

(2) *Administrative data* means administrative, control, and other technical messages made available by national securities exchanges and national securities associations pursuant to the effective national market system plan or plans required under § 242.603(b) or the technical specifications thereto as of [date of Commission approval of this proposal].

* * * * *

(5) *Auction information* means all information specified by national securities exchange rules or effective national market system plans that is generated by a national securities exchange leading up to and during an auction, including opening, reopening, and closing auctions, and disseminated during the time periods and at the time intervals provided in such rules and plans.

* * * * *

(16) *Competing consolidator* means a securities information processor required to be registered pursuant to Rule 614 or a national securities exchange or national securities association that receives information with respect to quotations for and transactions in NMS stocks and generates consolidated market data for dissemination to any person.

* * * * *

(19) *Consolidated market data* means the following data, consolidated across all national securities exchanges and national securities associations:

(i) Core data;

(ii) Regulatory data;

(iii) Administrative data;

(iv) Exchange-specific program data; and

(v) Additional regulatory, administrative, or exchange-specific program data elements defined as such pursuant to the effective national market system plan or plans required under § 242.603(b).

(20) *Core data* means the following information with respect to quotations for, and transactions in, NMS stocks. For purposes of the calculation and dissemination of core data by competing consolidators, and the calculation of core data by self-aggregators, the best bid and best offer, national best bid and national best offer, and depth of book data shall include odd-lots that when aggregated are equal to or greater than a round lot; such aggregation shall occur across multiple prices and shall be disseminated at the least aggressive price of all such aggregated odd-lots. For purposes of the calculation and dissemination of core data by competing consolidators, and the calculation of core data by self-aggregators, protected quotations shall include odd-lots at a single price that when aggregated are equal to or greater than 100 shares:

(i) Quotation sizes;

(ii) Aggregate quotation sizes;

(iii) Best bid and best offer;

(iv) National best bid and national best offer;

(v) Protected bid and protected offer;

(vi) Transaction reports;

(vii) Last sale data;

(viii) Odd-lot transaction data disseminated pursuant to the effective national market system plan or plans required under § 242.603(b) as of [date of Commission approval of this proposal].

(ix) Depth of book data; and

(x) Auction information.

* * * * *

(25) *Depth of book data* means all quotation sizes at each national securities exchange, aggregated at each price at which there is a bid or offer that is lower than the best bid down to the protected bid and higher than the best offer up to the protected offer; and all quotation sizes at each national securities exchange, aggregated at each of the next 5 prices at which there is a bid that is lower than the protected bid and offer that is higher than the protected offer.

* * * * *

(32) *Exchange-specific program data* means: (i) Information related to retail liquidity programs specified by the rules of national securities exchanges and disseminated pursuant to the effective national market system plan or plans required under § 242.603(b) as of [date of Commission approval of this proposal]; and

(ii) Other exchange-specific information with respect to quotations for or transactions in NMS stocks as specified by the effective national market system plan or plans required under § 242.603(b).

* * * * *

(50) *National best bid and national best offer* means, with respect to quotations for an NMS stock, the best bid and best offer for such stock that are calculated and disseminated on a current and continuing basis by a competing consolidator or calculated by a self-aggregator and, for NMS securities other than NMS stocks, the best bid and best offer for such security that are calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system plan; provided, that in the event two or more market centers transmit to the plan processor, a competing consolidator or self-aggregator identical bids or offers for an NMS security, the best bid or best offer (as the case may be) shall be determined by ranking all such identical bids or offers (as the case may be) first by size (giving the highest ranking to the bid or offer associated with the largest size), and then by time (giving the highest ranking to the bid or offer received first in time).

* * * * *

(67) *Primary listing exchange* means, for each NMS stock, the national securities exchange identified as the primary listing exchange in the effective national market system plan or plans required under § 242.603(b).

* * * * *

(69) *Protected bid or protected offer* means a quotation in an NMS stock that:

(i) Is displayed by an automated trading center;

(ii) Is disseminated pursuant to an effective national market system plan; and

(iii) Is an automated quotation that is the best bid or best offer of at least 100 shares of a national securities exchange, or the best bid or best offer of at least 100 shares of a national securities association.

* * * * *

(77) *Regulatory data* means:

(i) Information required to be collected or calculated by the primary listing exchange for an NMS stock and provided to competing consolidators and self-aggregators pursuant to the effective national market system plan or plans required under § 242.603(b), including, at a minimum:

(A) Information regarding Short Sale Circuit Breakers pursuant to § 242.201;

(B) Information regarding Price Bands required pursuant to the Plan to Address Extraordinary Market Volatility (LULD Plan);

(C) Information relating to regulatory halts or trading pauses (news dissemination/pending, LULD, Market-Wide Circuit Breakers) and reopenings or resumptions;

(D) The official opening and closing prices of the primary listing exchange; and

(E) An indicator of the applicable round lot size.

(ii) Information required to be collected or calculated by the national securities exchange or national securities association on which an NMS stock is traded and provided to competing consolidators and self-aggregators pursuant to the effective national market system plan or plans required under § 242.603(b), including, at a minimum:

(A) Whenever such national securities exchange or national securities association receives a bid (offer) below (above) an NMS stock's lower (upper) LULD price band, an appropriate regulatory data flag identifying the bid (offer) as non-executable; and

(B) Other regulatory messages including subpenny execution and trade-though exempt indicators.

(iii) For purposes of paragraph (i)(C) of this definition, the primary listing exchange that has the largest proportion of companies included in the S&P 500 Index shall monitor the S&P 500 Index throughout the trading day, determine whether a Level 1, Level 2, or Level 3 decline, as defined in self-regulatory organization rules related to Market-Wide Circuit Breakers, has occurred, and immediately inform the other primary listing exchanges of all such declines.

* * * * *

(81) *Round lot* means:

(i) For any NMS stock for which the prior calendar month's average closing price on the primary listing exchange (or the IPO price if the prior month's average closing price is not available) was $50.00 or less per share, an order for the purchase or sale of an NMS stock of 100 shares;

(ii) For any NMS stock for which the prior calendar month's average closing price on the primary listing exchange (or the IPO price if the prior month's average closing price is not available) was $50.01 to $100.00 per share, an order for the purchase or sale of an NMS stock of 20 shares;

(iii) For any NMS stock for which the prior calendar month's average closing price on the primary listing exchange (or the IPO price if the prior month's average closing price is not available) was $100.01 to $500.00 per share, an order for the purchase or sale of an NMS stock of 10 shares;

(iv) For any NMS stock for which the prior calendar month's average closing price on the primary listing exchange (or the IPO price if the prior month's average closing price is not available) was $500.01 to $1,000.00 per share, an order for the purchase or sale of an NMS stock of 2 shares; and

(v) For any NMS stock for which the prior calendar month's average closing price on the primary listing exchange (or the IPO price if the prior month's average closing price is not available) was $1,000.01 or more per share, an order for the purchase or sale of an NMS stock of 1 share.

(82) *Self-aggregator* means a broker or dealer that receives information with respect to quotations for and transactions in NMS stocks, including all data necessary to generate consolidated market data, and generates consolidated market data solely for internal use. A self-aggregator may not make consolidated market data, or any subset of consolidated market data, available to any other person.

* * * * *

§ 242.602 [Amended].

■ 9. Amend § 242.602 by:

■ a. In paragraph (a)(5)(i) removing the text ''§ 242.600(b)(77)'' and adding in its place ''§ 242.600(b)(88)'' and

■ b. In paragraph (a)(5)(ii) removing the text ''§ 242.600(b)(77)'' and adding in its place ''§ 242.600(b)(88)''.

■ 10. Amend § 242.603 by revising paragraph (b) to read as follows:

§ 242.603 Distribution, consolidation, and display of information with respect to quotations for and transactions in NMS stocks.

* * * * *

(b) *Dissemination of information.* Every national securities exchange on which an NMS stock is traded and national securities association shall act jointly pursuant to one or more effective national market system plans for the dissemination of consolidated market data. Every national securities exchange on which an NMS stock is traded and national securities association shall make available to all competing

consolidators and self-aggregators its information with respect to quotations for and transactions in NMS stocks, including all data necessary to generate consolidated market data, in the same manner and using the same methods, including all methods of access and the same format, as such national securities exchange or national securities association makes available any information with respect to quotations for and transactions in NMS stocks to any person.

* * * * *

§ 242.611 [Amended].

■ 11. In § 242.611, amend paragraph (c) by removing the text ''§ 242.600(b)(31)'' and adding in its place ''§ 242.600(b)(38)''.

■ 12. Add § 242.614 to read as follows:

§ 242.614 Registration and responsibilities of competing consolidators.

(a) *Competing consolidator registration.* (1) *Initial Form CC.* (i) *Filing and effectiveness requirement.* No person, other than a national securities exchange or a national securities association,

(A) May receive directly from a national securities exchange or national securities association information with respect to quotations for and transactions in NMS stocks; and

(B) Generate consolidated market data for dissemination to any person unless the person files with the Commission an initial Form CC and the initial Form CC has become effective pursuant to paragraph (a)(1)(v) of this section.

(ii) *Electronic filing and submission.* Any reports to the Commission required under this Rule 614 shall be filed electronically on Form CC (17 CFR 249.1002), include all information as prescribed in Form CC and the instructions thereto, and contain an electronic signature as defined in § 240.19b–4(j).

(iii) *Commission review period.* The Commission may, by order, as provided in paragraph (a)(1)(v)(B) of this section, declare an initial Form CC filed by a competing consolidator ineffective no later than 90 calendar days from the date of filing with the Commission.

(iv) *Withdrawal of initial Form CC due to inaccurate or incomplete disclosures.* During the review by the Commission of the initial Form CC, if any information disclosed in the initial Form CC is or becomes inaccurate or incomplete, the competing consolidator shall promptly withdraw the initial Form CC and may refile an initial Form CC pursuant to paragraph (a)(1).

(v) *Effectiveness; Ineffectiveness determination.* (A) An initial Form CC filed by a competing consolidator will become effective, unless declared ineffective, no later than the expiration of the review period provided in paragraph (a)(1)(iii) of this section and publication pursuant to paragraph (b)(2)(i) of this section.

(B) The Commission shall, by order, declare an initial Form CC ineffective if it finds, after notice and opportunity for hearing, that such action is necessary or appropriate in the public interest, and is consistent with the protection of investors. If the Commission declares an initial Form CC ineffective, the competing consolidator shall be prohibited from operating as a competing consolidator. An initial Form CC declared ineffective does not prevent the competing consolidator from subsequently filing a new Form CC.

(2) *Form CC Amendments.* A competing consolidator shall amend a Form CC:

(i) Prior to the implementation of a material change to the pricing, connectivity, or products offered (''Material Amendment''); and

(ii) No later than 30 calendar days after the end of each calendar year to correct information that has become inaccurate or incomplete for any reason and to provide an Annual Report as required under Form CC (each a ''Form CC Amendment'').

(3) *Notice of cessation.* A competing consolidator shall notice its cessation of operations on Form CC at least 30 business days prior to the date the competing consolidator will cease to operate as a competing consolidator. The notice of cessation shall cause the Form CC to become ineffective on the date designated by the competing consolidator.

(4) *Date of filing.* For purposes of filings made pursuant to this section:

(i) The term *business day* shall have the same meaning as defined in § 240.19b–4(b)(2).

(ii) If the conditions of this section and Form CC are otherwise satisfied, all filings submitted electronically on or before 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, on a business day, shall be deemed filed on that business day, and all filings submitted after 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, shall be deemed filed on the next business day.

(b) *Public disclosures.* (1) Every Form CC filed pursuant to this section shall constitute a ''report'' within the meaning of sections 11A, 17(a), 18(a), and 32(a) of the Act (15 U.S.C. 78k–1, 78q(a), 78r(a), and 78ff(a)), and any other applicable provisions of the Act.

(2) The Commission will make public via posting on the Commission's website, each:

(i) Effective initial Form CC, as amended;

(ii) Order of ineffective initial Form CC;

(iii) Form CC Amendment. The Commission will make public the entirety of any Form CC Amendment no later than 30 calendar days from the date of filing thereof with the Commission; and

(iv) Notice of cessation.

(c) *Posting of hyperlink to the Commission's website.* Each competing consolidator shall make public via posting on its website a direct URL hyperlink to the Commission's website that contains the documents enumerated in paragraph (b)(2) of this section.

(d) *Responsibilities of competing consolidators.* Each competing consolidator shall:

(1) Collect from each national securities exchange and national securities association, either directly or indirectly, the information with respect to quotations for and transactions in NMS stocks as provided in Rule 603(b).

(2) Calculate and generate consolidated market data as defined in Rule 600(b)(19) from the information collected pursuant to paragraph (d)(1) of this section.

(3) Make consolidated market data, as defined in Rule 600(b)(19), as timestamped as required by paragraph (d)(4) of this section and including the national securities exchange and national securities association data generation timestamp required to be provided by the national securities exchange and national securities association participants by paragraph (e)(1)(ii) of this section, available to subscribers on a consolidated basis on terms that are not unreasonably discriminatory.

(4) Timestamp the information collected pursuant to paragraph (d)(1) of this section (i) upon receipt from each national securities exchange and national securities association; (ii) upon receipt of such information at its aggregation mechanism; and (iii) upon dissemination of consolidated market data to subscribers.

(5) Within fifteen [15] calendar days after the end of each month, publish prominently on its website monthly performance metrics, as defined by the effective national market system plan(s) for NMS stocks, that shall include at least the following. All information must be publicly posted in

downloadable files and must remain free and accessible (without any encumbrances or restrictions) by the general public on the website for a period of not less than three years from the initial date of posting.

(i) Capacity statistics;

(ii) Message rate and total statistics;

(iii) System availability;

(iv) Network delay statistics; and

(v) Latency statistics for the following, with distribution statistics up to the 99.99th percentile:

(A) When a national securities exchange or national securities association sends an inbound message to a competing consolidator network and when the competing consolidator network receives the inbound message;

(B) When the competing consolidator network receives the inbound message and when the competing consolidator network sends the corresponding consolidated message to a subscriber; and

(C) When a national securities exchange or national securities association sends an inbound message to a competing consolidator network and when the competing consolidator network sends the corresponding consolidated message to a subscriber.

(6) Within fifteen [15] calendar days after the end of each month, publish prominently on its website the following information. All information must be publicly posted and must remain free and accessible (without any encumbrances or restrictions) by the general public on the website for a period of not less than three years from the initial date of posting.

(i) Data quality issues;

(ii) System issues;

(iii) Any clock synchronization protocol utilized;

(iv) For the clocks used to generate the timestamps described in paragraph (d)(4) of this section, the clock drift averages and peaks, and the number of instances of clock drift greater than 100 microseconds; and

(v) Vendor alerts.

(7) Keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts and such other records as shall be made or received by it in the course of its business as such and in the conduct of its business. Competing consolidators shall keep all such documents for a period of no less than five years, the first two years in an easily accessible place;

(8) Upon request of any representative of the Commission, promptly furnish to the possession of such representative copies of any documents required to be kept and preserved by it.

(e) *Amendment of the effective national market system plan(s) for NMS stocks.* (1) The participants to the effective national market system plan(s) for NMS stocks shall file with the Commission, pursuant to Rule 608, an amendment that includes the following provisions within 60 calendar days from the effective date of Rule 614:

(i) Conforming the effective national market system plan(s) for NMS stocks to reflect provision of information with respect to quotations for and transactions in NMS stocks that is necessary to generate consolidated market data by the national securities exchange and national securities association participants to competing consolidators and self-aggregators;

(ii) The application of timestamps by the national securities exchange and national securities association participants on all consolidated market data, including the time that consolidated market data was generated as applicable by the national securities exchange or national securities association and the time the national securities exchange or national securities association made the consolidated market data available to competing consolidators and self-aggregators;

(iii) Assessments of competing consolidator performance, including speed, reliability, and cost of data provision and the provision of an annual report of such assessment to the Commission;

(iv) A list that identifies the primary listing exchange for each NMS stock.

■ 13. Amend § 242.1000 by:

■ a. In the definition of ''Critical SCI systems,'' removing the text ''consolidated market data'' in paragraph (1)(v) and adding in its place ''market data by a plan processor'';

■ b. Adding in alphabetical order the definition of ''Competing consolidator'';

■ c. In the definition of ''Plan processor'' removing the text ''§ 242.600(b)(59)'' and adding in its place ''§ 242.600(b)(66)''.

■ d. In the definition''SCI entity'' removing the period and adding at the end of the definition '', or competing consolidator.''

The addition to read as follows:

§ 242.1000 Definitions.

* * * * *

Competing consolidator has the meaning set forth in § 242.600(b)(16).

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 14. The general authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b), Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3), Pub. L. 112–106, 126 Stat. 309 (2012); Sec. 107, Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001, Pub. L. 114–94, 129 Stat. 1312 (2015), unless otherwise noted.

* * * * *

■ 15. Add § 249.1002 to Subpart K to read as follows:

§ 249.1002 Form CC, for application for registration as a competing consolidator or to amend such an application or registration.

This form shall be used for application for registration as a competing consolidator, pursuant to section 11A of the Securities Exchange Act of 1934 (15 U.S.C. 78k–1) and § 242.614 of this chapter, or to amend such an application or registration.

Note: The text of Form CC does not, and the amendments will not, appear in the Code of Federal Regulations.

BILLING CODE 8011–01–P

Securities and Exchange Commission
Washington, DC 20549
FORM CC
INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

Section I - Form Filing Information

Page 1 of _____ File No: FORMCC-[acronym]-YYYY-####

{Name of Competing Consolidator} is making the filing pursuant to Rule 614 under the Securities Exchange Act of 1934

Submission Type (select one)

☐ Rule 614(a)(1) Initial Form CC

☐ Rule 614(a)(2)(i) Material Amendment

☐ Rule 614(a)(2)(ii) Annual Report

☐ Rule 614(a)(3) Notice of Cessation

○ Date competing consolidator will cease to operate (mm/dd/yyyy).

Section II – General Information

☐ Check Box if there is a change in information previously filed.

1) Legal name of applicant:_____

2) DBA if operating under a different name than above:_____

3) Primary Street Address (Do not use a P.O. Box)

4) Street: _____

5) City_____, State_____ Zip Code_____

6) Mailing Address: ☐ Same as above

Street: _____

City_____, State_____ Zip Code_____

7) Business Telephone (###) ____-_____

8) Provide the website URL of the registrant:_____

9) Is the applicant a broker-dealer or affiliated with a broker-dealer registered with the Commission (yes/no)

   a) If yes, provide the full name of the registered broker-dealer as stated on Form BD:

   b) SEC File No:_____

   c) CRD No:_____

10) If applicant is a successor (within the definition of Rule 12b-2 under the Securities Exchange Act of 1934) to a previously registered competing consolidator, please complete the following:

   a) Date of Succession: mm/dd/yyyy

   b) Full name/address of predecessor registrant:_____

11) Legal Status (select one):

   a. Sole Proprietorship
   b. Corporation
   c. Partnership
   d. Limited Liability Company
   e. Other (Specify):_____

   If other than a sole proprietor, please provide the following:

   f. Date entity obtained legal status (e.g., date of incorporation) (mm/dd/yyyy).
   g. State/country of formation: {pick list}
   h. Statute under which entity was organized _____

Section III: Business Organization

☐ **All Exhibits-Consolidated Document Attachment:** The competing consolidator may choose to provide a consolidated document containing all Exhibits or individual documents for each Exhibit. If providing individual documents, use the attachment buttons in the Exhibit Table. If providing a consolidated document, please use the attachment buttons here:

12) Attach as **Exhibit A** to this application a list of any person as defined in Section 3(a)(9) of the Securities Exchange Act of 1934 (see also Section 3(a)(19) of the Securities Exchange Act of 1934) who owns 10 percent or more of applicant's stock or who, either directly or indirectly, through agreement or otherwise, in any other manner, may control or direct the management or policies of the competing consolidator. Include the full name and title of each such person and attach a copy of the agreement or, if there is none written, describe the agreement or basis upon which such person exercises or may exercise such control or direction. Alternatively, if applicant is a broker-dealer, or is affiliated with a broker-dealer, you may provide the Schedule A of Form BD relating to direct owners and executive officers.

☐ In lieu of filing this Exhibit A (or providing Schedule A of Form BD), [name of entity] certifies that the information requested under this Exhibit is available at the Internet website below and is accurate as of the date of this filing.

URL_____

13) Attach as **Exhibit B** to this application a list of the present officers, directors, governors (and, in the case of an applicant that is not a corporation, the members of all standing committees grouped by committee), or persons performing functions similar to any of the foregoing, of

the competing consolidator. For each person provide (a) Name (last, first, middle); (b) Title (if any) and area of responsibility; (c) Length of time each present officer, director, or governor has held the same office or position, and (d) Any other business affiliations in the securities industry or securities information processing industry. Alternatively, if applicant is a broker-dealer, or is affiliated with a broker-dealer, you may provide the Schedule B of Form BD relating to indirect owners.

☐ In lieu of filing this Exhibit B (or providing Schedule B of Form BD), [name of entity] certifies that the information requested under this Exhibit is available at the Internet website below and is accurate as of the date of this filing.

URL_____

14) Attach as **Exhibit C** to this application a narrative or graphic description of the organizational structure of the applicant. Note: If the securities information processing activities of the competing consolidator are conducted primarily by a division, subdivision, or other segregable entity within the applicant corporation or organization, describe the relationship of such division, subdivision, or other segregable entity within the overall organizational structure and attach as part of this Exhibit only such description as applies to the division, subdivision, or other segregable entity.

15) Attach as **Exhibit D** to this application a list of all affiliates (within the definition of Rule 12b-2 under the Securities Exchange Act of 1934) of the competing consolidator and indicate the general nature of the affiliation.

Section IV: Operational Capability

16) Attach as **Exhibit E** to this application a narrative description of each consolidated market data service or function, including connectivity and delivery options for the subscribers, and a description of all procedures utilized for the collection, processing, distribution, publication and retention of information with respect to quotations for, and transactions in, securities.

Section V - Services and Fees

17) Attach as **Exhibit F** to this application a description of all market data products with respect to consolidated market data or any subset of consolidated market data that are provided to subscribers.

18) Attach as **Exhibit G** to this application a description and identification of any fees or charges for use of the competing consolidator with respect to consolidated market data or any subset of consolidated market data, services, including the types of fees (e.g., subscription, connectivity), the structure of the fee (e.g., fixed, variable), variables that impact the fees, pricing differentiation among the types of subscribers, and range of fees (high and low).

19) Attach as **Exhibit H** to this application a description of any co-location and related services, the terms and conditions for co-location, connectivity, and related services, including connectivity and throughput options offered. Describe any other means besides co-location and related services to increase the speed of communication, including a summary of the terms and conditions for its use.

20) Attach as **Exhibit I** to this application a narrative description, or the functional specifications, of each consolidated market data service or function, including connectivity and delivery options for the subscribers.

Section VI: Contact Information

Provide the following information of the contact employee at {the name of the competing consolidator} prepared to respond to questions for this submission:

First Name: Last Name:

Title:

E-Mail: Telephone:

Section VII: Signature Block and Consent to Service

The {Entity Name} consents that service of any civil action brought by, or notice of any proceeding before, the SEC in connection with the competing consolidator's activities may be given by registered or certified mail or e-mail to the competing consolidator's contact employee at the primary street address or e-mail address, or mailing address if different, given in Section II above. The undersigned, being first duly sworn, deposes and says that he/she has executed this form on behalf of, and with the authority of, said competing consolidator. The undersigned and {Entity Name} represent that the information and statements contained herein, including exhibits, schedules, or other documents attached hereto, and other information filed herewith, all of which are made a part hereof, are current, true, and complete.

Date {auto fill} {Entity Name}

By: _____ Title_____

(Digital signature)

BILLING CODE 8011–01–C

Form CC General Instructions

A. Use of the Form

Form CC is the form a competing consolidator must file to notify the Securities and Exchange Commission (''SEC'' or ''Commission'') of its activities pursuant to Rule 614 of Regulation NMS, § 242.614 *et seq.* Filings submitted pursuant to Rule 614 shall be filed in an electronic format through an electronic form filing system (''EFFS''), a secure website operated by the Commission. Documents attached as exhibits filed through the EFFS system must be in a text-searchable format without the use of optical character recognition. If, however, a portion of a Form CC submission (*e.g.,* an image or diagram) cannot be made available in a text-searchable format, such portion may be submitted in a non-text searchable format.

B. Need for Careful Preparation of the Completed Form, Including Exhibits

A competing consolidator must provide all of the information required by Form CC, including the exhibits, and must provide disclosure information that is accurate, current, and complete. The information in the exhibits must be provided in a clear and comprehensible manner. A filing that is incomplete or similarly deficient may be returned to the competing consolidator. Any filing so returned shall for all purposes be deemed not to have been filed with the Commission. *See also* Rule 0–3 under the Securities Exchange Act of 1934 (17 CFR 240.0–3).

C. When To Use the FORM CC

Form CC is comprised of 4 types of submissions to the Commission required pursuant to Rule 614 of Regulation NMS. In filling out the Form CC, a competing consolidator shall select the type of filing and provide all information required by Rule 614 of Regulation NMS. The types of submissions are:

(1) Rule 614(a)(1) Initial Form CC: Prior to commencing operations, a competing consolidator shall file an initial Form CC and the initial Form CC must become effective.

(2) Rule 614(a)(2)(i) Material Amendment: The competing consolidator shall file an amendment on Form CC prior to implementing a material change to the pricing, connectivity, or products offered of the competing consolidator.

(3) Rule 614(a)(2)(ii) Annual Report: The competing consolidator shall file an Annual Report on Form CC correcting any information contained in the initial Form CC or in any previously filed amendment that has been rendered inaccurate or incomplete for any reason, and that has not previously been reported to the SEC, no later than 30 calendar days after the end of each calendar year in which the competing consolidator has operated. Competing consolidators filing the Annual Report must file a complete form, including all pages and answers to all items, together with all exhibits. The competing consolidator must indicate which items have been amended since the last Annual Report.

(4) Rule 614(a)(3) Notice of Cessation: The competing consolidator shall file a notice of cessation of operations at least 30 business days prior to the date upon ceasing to operate as a competing consolidator.

D. Documents Comprising the Completed Form

The completed form filed with the Commission shall consist of Form CC, responses to all applicable items, and any exhibits required in connection with the filing. Each filing shall be marked on Form CC with the initials of the competing consolidator, the four-digit year, and the number of the filing for the year (*e.g.,* FormCC–acronym–YYYY–XXX).

E. Contact Information; Signature; and Filing of Completed Form

Each time a competing consolidator submits a filing to the Commission on Form CC, the competing consolidator must provide the contact information required by Section VI of Form CC. The contact employee must be authorized to receive all contact information, communications and mailings and must be responsible for disseminating that information within the competing consolidator's organization.

In order to file Form CC through the EFFS, a competing consolidator must request access to the Commission's External Application Server. Initial requests will be received by contacting the Division of Trading & Markets at (202) 551–5777. An email will be sent to the requestor that will provide a link to a secure website where basic profile information will be requested.

A duly authorized individual of the competing consolidator shall electronically sign the completed Form CC as indicated in Section VII of the form.

F. Paperwork Reduction Act Disclosure

Form CC requires a competing consolidator subject to Rule 614 of Regulation NMS to provide the Commission with certain information regarding the operation of the competing consolidator, material and other changes to the operation of the competing consolidator, and notice upon ceasing operation of the competing consolidator.

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 control number. Sections 3(b), 11A(a), 11A(c), 15(c), 17(a), 23(a) and 36(a) authorize the Commission to collect information on this Form CC from competing consolidators that are subject to Rule 614. *See* 15 U.S.C. 78c(b), 78k–1(a), 78k–1(c), 78o(c), 78q(a), 78w(a) and 78mm(a).

It is estimated that a competing consolidator will spend approximately 200.3 hours completing the initial operation report on Form CC, approximately 6.15 hours preparing each amendment to Form CC, and approximately two (2) hours preparing a cessation of operations report on Form CC. Any member of the public may direct to the Commission any comments concerning the accuracy of the burden estimate on the facing page of Form CC and any suggestions for reducing this burden.

Form CC is designed to enable the Commission to determine whether a competing consolidator subject to Rule 614 of Regulation NMS is in compliance with Rule 614 and other federal securities laws. It is mandatory that a competing consolidator subject to Rule 614 file an initial Form CC, file an amendment to Form CC prior to making a material change, file Annual Reports

to Form CC to reflect changes not previously reported, and file notice on Form CC upon ceasing operation of the competing consolidator.

All reports provided to the Commission on Form CC are subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522 (''FOIA'') and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)).

This collection of information has been reviewed by the Office of Management and Budget (''OMB'') in accordance with the clearance requirements of 44 U.S.C. 3507. The applicable Privacy Act system of records is SEC–2 and the routine uses of the records are set forth at 40 FR 39255 (August 27, 1975) and 41 FR 5318 (February 5, 1976).

G. Definitions

Unless the context requires otherwise, all terms used in this form have the same meaning as in the Securities Exchange Act of 1934, as amended, and in the rules and regulations of the Commission thereunder.

■ 16. Revise subpart T, consisting of § 249.1900 to read as follows:

Subpart T—Form SCI, for filing notices and reports as required by Regulation SCI.

§ 249.1900. Form SCI, for filing notices and reports as required by Regulation SCI.

Form SCI shall be used to file notices and reports as required by Regulation SCI (§§ 242.1000 through 242.1007).

Note: The text of Form SCI does not, and the amendments will not, appear in the Code of Federal Regulations.

BILLING CODE 8011–01–P

Securities and Exchange Commission
Washington, DC 20549
Form SCI

Page 1 of _____ File No. SCI-{name}-YYYY-###

SCI Notification and Reporting by: {SCI entity name}

Pursuant to Rules 1002 and 1003 of Regulation SCI under the Securities Exchange Act of 1934

- ❑ Initial
- ❑ Withdrawal

SECTION I: Rule 1002 - Commission Notification of SCI Event

A. Submission Type (select one only)

- ❑ Rule 1002(b)(1) Initial Notification of SCI event
- ❑ Rule 1002(b)(2) Notification of SCI event
- ❑ Rule 1002(b)(3) Update of SCI event: ####
- ❑ Rule 1002(b)(4) Final Report of SCI Event
- ❑ Rule 1002(b)(4) Interim Status Report of SCI event

If filing a Rule 1002(b)(1) or Rule 1002(b)(3) submission, please provide a brief description:

_____

_____

_____

B. SCI Event Type(s) (select all that apply)

- ❑ Systems compliance issue
- ❑ Systems disruption
- ❑ Systems intrusion

C. General Information Required for (b)(2) filings.

1) Has the Commission previously been notified of the SCI event pursuant to 1002(b)(1)? *yes/no*
2) Date/time SCI event occurred: *mm/dd/yyyy hh:mm am/pm*
3) Duration of SCI event: *hh:mm*, or *days*
4) Please provide the date and time when a responsible SCI personnel had reasonable basis to conclude the SCI event occurred:

   mm/dd/yyyy *hh:mm am/pm*
5) Has the SCI event been resolved? *yes/no*
   a) If yes, provide date and time of resolution: *mm/dd/yyyy* *hh:mm am/pm*
6) Is the investigation of the SCI event closed? *yes/no*
   a) If yes, provide date of closure**:** *mm/dd/yyyy*
7) Estimated number of market participants potentially affected by the SCI event: ####
8) Is the SCI event a major SCI event (as defined in Rule 1000)? *yes/no*

D. Information about impacted systems:
Name(s) of system(s):

_____

_____

_____

Type(s) of system(s) impacted by the SCI event (check all that apply):

❑ Trading ❑ Clearance and settlement ❑ Order routing

❑ Market data ❑ Market regulation ❑ Market surveillance

❑ Indirect SCI systems (please describe):

_____

_____

_____

Are any critical SCI systems impacted by the SCI event (check all that apply)? Yes/No

1) Systems that directly support functionality relating to:
❑ Clearance and settlement systems of clearing agencies

❑ Openings, reopenings, and closings on the primary listing market

❑ Trading halts ❑ Initial public offerings

❑ The provision of market data by a plan processor ❑ Exclusively-listed securities

2) ❑ Systems that provide functionality to the securities markets for which the availability of alternatives is significantly limited or nonexistent and without which there would be a material impact on fair and orderly markets (please describe):

_____

_____

_____

SECTION II: Periodic Reporting (select one only)

A. Quarterly Reports: For the quarter ended: mm/dd/yyyy

❑ Rule 1002(b)(5)(ii): Quarterly report of systems disruptions and systems intrusions with no or a de minimis impact.

❑ Rule 1003(a)(1): Quarterly report of material systems changes

❑ Rule 1003(a)(2): Supplemental report of material systems changes

B. SCI Review Reports

❑ Rule 1003(b)(3): Report of SCI review, together with any response by senior management
Date of completion of SCI review: *mm/dd/yyyy*

Date of submission of SCI review to senior management: *mm/dd/yyyy*

SECTION III: Contact Information

Provide the following information of the person at the {SCI entity name} prepared to respond to questions for this submission:

First Name: Last Name:

Title:

E-Mail:

Telephone: Fax:

Additional Contacts (Optional)

First Name: Last Name:

Title:

E-Mail:

Telephone: Fax:

First Name: Last Name:

Title:

E-Mail:

Telephone: Fax:

SECTION IV: Signature

Confidential treatment is requested pursuant to Rule 24b-2(g). Additionally, pursuant to the requirements of the Securities Exchange Act of 1934, {SCI Entity name} has duly caused this {notification}{report} to be signed on its behalf by the undersigned duly authorized officer:

Date:

By (Name) Title (_____)

"Digitally Sign and Lock Form"

Exhibit 1: **Rule 1002(b)(2)** **Notification of SCI Event** Add/Remove/View	Within 24 hours of any responsible SCI personnel having a reasonable basis to conclude that the SCI event has occurred, the SCI entity shall submit a written notification pertaining to such SCI event to the Commission, which shall be made on a good faith, best efforts basis and include: (a) a description of the SCI event, including the system(s) affected; and (b) to the extent available as of the time of the notification: the SCI entity's current assessment of the types and number of market participants potentially affected by the SCI event; the potential impact of the SCI event on the market; a description of the steps the SCI entity has taken, is taking, or plans to take, with respect to the SCI event; the time the SCI event was resolved or timeframe within which the SCI event is expected to be resolved; and any other pertinent information known by the SCI entity about the SCI event.
Exhibit 2: **Rule 1002(b)(4)** **Final or Interim Report of SCI Event** Add/Remove/View	When submitting a final report pursuant to either Rule 1002(b)(4)(i)(A) or Rule 1002(b)(4)(i)(B)(2), the SCI entity shall include: (a) a detailed description of: the SCI entity's assessment of the types and number of market participants affected by the SCI event; the SCI entity's assessment of the impact of the SCI event on the market; the steps the SCI entity has taken, is taking, or plans to take, with respect to the SCI event; the time the SCI event was resolved; the SCI entity's rule(s) and/or governing document(s), as applicable, that relate to the SCI event; and any other pertinent information known by the SCI entity about the SCI event; (b) a copy of any information disseminated pursuant to Rule 1002(c) by the SCI entity to date regarding the SCI event to any of its members or participants; and (c) an analysis of parties that may have experienced a loss, whether monetary or otherwise, due to the SCI event, the number of such parties, and an estimate of the aggregate amount of such loss. When submitting an interim report pursuant to Rule 1002(b)(4)(i)(B)(1), the SCI entity shall include such information to the extent known at the time.
Exhibit 3: **Rule 1002(b)(5)(ii)** **Quarterly Report of De Minimis SCI Events** Add/Remove/View	The SCI entity shall submit a report, within 30 calendar days after the end of each calendar quarter, containing a summary description of systems disruptions and systems intrusions that have had, or the SCI entity reasonably estimates would have, no or a de minimis impact on the SCI entity's operations or on market participants, including the SCI systems and, for systems intrusions, indirect SCI systems, affected by such SCI events during the applicable calendar quarter.
Exhibit 4: **Rule 1003 (a)** **Quarterly Report of Systems Changes** Add/Remove/View	When submitting a report pursuant to Rule 1003(a)(1), the SCI entity shall provide a report, within 30 calendar days after the end of each calendar quarter, describing completed, ongoing, and planned material changes to its SCI systems and the security of indirect SCI systems, during the prior, current, and subsequent calendar quarters, including the dates or expected dates of commencement and completion. An SCI entity shall establish reasonable written criteria for identifying a change to its SCI systems and the security of indirect SCI systems as material and report such changes in accordance with such criteria. When submitting a report pursuant to Rule 1003(a)(2), the SCI entity shall provide a supplemental report of a material error in or material omission from a report previously submitted under Rule 1003(a)(1).
Exhibit 5: **Rule 1003(b)(3)** **Report of SCI review** Add/Remove/View	The SCI entity shall provide a report of the SCI review, together with any response by senior management, within 60 calendar days after its submission to senior management of the SCI entity.
Exhibit 6: **Optional Attachments** Add/Remove/View	This exhibit may be used in order to attach other documents that the SCI entity may wish to submit as part of a Rule 1002(b)(1) initial notification submission or Rule 1002(b)(3) update submission.

BILLING CODE 8011–01–C

General Instructions for Form SCI

A. Use of the Form

Except with respect to notifications to the Commission made pursuant to Rule 1002(b)(1) or updates to the Commission made pursuant to Rule 1002(b)(3), any notification, review, description, analysis, or report required to be submitted pursuant to Regulation SCI under the Securities Exchange Act of 1934 (''Act'') shall be filed in an electronic format through an electronic form filing system (''EFFS''), a secure website operated by the Securities and Exchange Commission (''Commission''). Documents attached as exhibits filed through the EFFS system must be in a text-searchable format without the use of optical character recognition. If,

however, a portion of a Form SCI submission (*e.g.,* an image or diagram) cannot be made available in a text-searchable format, such portion may be submitted in a non-text searchable format.

B. Need for Careful Preparation of the Completed Form, Including Exhibits

This form, including the exhibits, is intended to elicit information necessary for Commission staff to work with SCI self-regulatory organizations, SCI alternative trading systems, plan processors, exempt clearing agencies subject to ARP, and competing consolidators (collectively, ''SCI entities'') to ensure the capacity, integrity, resiliency, availability, security, and compliance of their automated systems. An SCI entity must provide all the information required by the form, including the exhibits, and must present the information in a clear and comprehensible manner. A filing that is incomplete or similarly deficient may be returned to the SCI entity. Any filing so returned shall for all purposes be deemed not to have been filed with the Commission. *See also* Rule 0–3 under the Act (17 CFR 240.0–3).

C. When to Use the Form

Form SCI is comprised of six types of required submissions to the Commission pursuant to Rules 1002 and 1003. In addition, Form SCI permits SCI entities to submit to the Commission two additional types of submissions pursuant to Rules 1002(b)(1) and 1002(b)(3); however, SCI entities are not required to use Form SCI for these two types of submissions to the Commission. In filling out Form SCI, an SCI entity shall select the type of filing and provide all information required by Regulation SCI specific to that type of filing.

The first two types of required submissions relate to Commission notification of certain SCI events:

(1) ''Rule 1002(b)(2) Notification of SCI Event'' submissions for notifications regarding systems disruptions, systems compliance issues, or systems intrusions (collectively, ''SCI events''), other than any systems disruption or systems intrusion that has had, or the SCI entity reasonably estimates would have, no or a de minimis impact on the SCI entity's operations or on market participants; and

(2) ''Rule 1002(b)(4) Final or Interim Report of SCI Event'' submissions, of which there are two kinds (a final report under Rule 1002(b)(4)(i)(A) or Rule 1002(b)(4)(i)(B)(*2*); or an interim status report under Rule 1002(b)(4)(i)(B)(*1*)).

The other four types of required submissions are periodic reports, and include:

(1) ''Rule 1002(b)(5)(ii)'' submissions for quarterly reports of systems disruptions and systems intrusions which have had, or the SCI entity reasonably estimates would have, no or a de minimis impact on the SCI entity's operations or on market participants (''de minimis SCI events'');

(2) ''Rule 1003(a)(1)'' submissions for quarterly reports of material systems changes;

(3) ''Rule 1003(a)(2)'' submissions for supplemental reports of material systems changes; and

(4) ''Rule 1003(b)(3)'' submissions for reports of SCI reviews.

Required Submissions for SCI Events

For 1002(b)(2) submissions, an SCI entity must notify the Commission using Form SCI by selecting the appropriate box in Section I and filling out all information required by the form, including Exhibit 1. 1002(b)(2) submissions must be submitted within 24 hours of any responsible SCI personnel having a reasonable basis to conclude that an SCI event has occurred.

For 1002(b)(4) submissions, if an SCI event is resolved and the SCI entity's investigation of the SCI event is closed within 30 calendar days of the occurrence of the SCI event, an SCI entity must file a final report under Rule 1002(b)(4)(i)(A) within five business days after the resolution of the SCI event and closure of the investigation regarding the SCI event. However, if an SCI event is not resolved or the SCI entity's investigation of the SCI event is not closed within 30 calendar days of the occurrence of the SCI event, an SCI entity must file an interim status report under Rule 1002(b)(4)(i)(B)(*1*) within 30 calendar days after the occurrence of the SCI event. For SCI events in which an interim status report is required to be filed, an SCI entity must file a final report under Rule 1002(b)(4)(i)(B)(*2*) within five business days after the resolution of the SCI event and closure of the investigation regarding the SCI event. For 1002(b)(4) submissions, an SCI entity must notify the Commission using Form SCI by selecting the appropriate box in Section I and filling out all information required by the form, including Exhibit 2.

Required Submissions for Periodic Reporting

For 1002(b)(5)(ii) submissions, an SCI entity must submit quarterly reports of systems disruptions and systems intrusions which have had, or the SCI entity reasonably estimates would have, no or a de minimis impact on the SCI entity's operations or on market participants. The SCI entity must select the appropriate box in Section II and fill out all information required by the form, including Exhibit 3.

For 1003(a)(1) submissions, an SCI entity must submit its quarterly report of material systems changes to the Commission using Form SCI. The SCI entity must select the appropriate box in Section II and fill out all information required by the form, including Exhibit 4.

Filings made pursuant to Rule 1002(b)(5)(ii) and Rule 1003(a)(1) must be submitted to the Commission within 30 calendar days after the end of each calendar quarter (*i.e.,* March 31st, June 30th, September 30th and December 31st) of each year.

For 1003(a)(2) submissions, an SCI entity must submit a supplemental report notifying the Commission of a material error in or material omission from a report previously submitted under Rule 1003(a). The SCI entity must select the appropriate box in Section II and fill out all information required by the form, including Exhibit 4.

For 1003(b)(3) submissions, an SCI entity must submit its report of its SCI review, together with any response by senior management, to the Commission using Form SCI. A 1003(b)(3) submission is required within 60 calendar days after the report of the SCI review has been submitted to senior management of the SCI entity. The SCI entity must select the appropriate box in Section II and fill out all information required by the form, including Exhibit 5.

Optional Submissions

An SCI entity may, but is not required to, use Form SCI to submit a notification pursuant to Rule 1002(b)(1). If the SCI entity uses Form SCI to submit a notification pursuant to Rule 1002(b)(1), it must select the appropriate box in Section I and provide a short description of the SCI event. Documents may also be attached as Exhibit 6 if the SCI entity chooses to do so. An SCI entity may, but is not required to, use Form SCI to submit an update pursuant to Rule 1002(b)(3). Rule 1002(b)(3) requires an SCI entity to, until such time as the SCI event is resolved and the SCI entity's investigation of the SCI event is closed, provide updates pertaining to such SCI event to the Commission on a regular basis, or at such frequency as reasonably requested by a representative of the Commission, to correct any materially incorrect information previously provided, or when new

material information is discovered, including but not limited to, any of the information listed in Rule 1002(b)(2)(ii). If the SCI entity uses Form SCI to submit an update pursuant to Rule 1002(b)(3), it must select the appropriate box in Section I and provide a short description of the SCI event. Documents may also be attached as Exhibit 6 if the SCI entity chooses to do so.

D. Documents Comprising the Completed Form

The completed form filed with the Commission shall consist of Form SCI, responses to all applicable items, and any exhibits required in connection with the filing. Each filing shall be marked on Form SCI with the initials of the SCI entity, the four-digit year, and the number of the filing for the year (*e.g.,* SCI Name–YYYY–XXX).

E. Contact Information; Signature; and Filing of the Completed Form

Each time an SCI entity submits a filing to the Commission on Form SCI, the SCI entity must provide the contact information required by Section III of Form SCI. Space for additional contact information, if appropriate, is also provided.

All notifications and reports required to be submitted through Form SCI shall be filed through the EFFS. In order to file Form SCI through the EFFS, SCI entities must request access to the Commission's External Application Server by completing a request for an external account user ID and password. Initial requests will be received by contacting (202) 551–5777. An email will be sent to the requestor that will provide a link to a secure website where basic profile information will be requested. A duly authorized individual of the SCI entity shall electronically sign the completed Form SCI as indicated in Section IV of the form. In addition, a duly authorized individual of the SCI entity shall manually sign one copy of the completed Form SCI, and the manually signed signature page shall be preserved pursuant to the requirements of Rule 1005.

F. Withdrawals of Commission Notifications and Periodic Reports

If an SCI entity determines to withdraw a Form SCI, it must complete Page 1 of the Form SCI and indicate by selecting the appropriate check box to withdraw the submission.

G. Paperwork Reduction Act Disclosure

This collection of information will be reviewed by the Office of Management and Budget in accordance with the clearance requirements of 44 U.S.C. 3507. 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 control number. The Commission estimates that the average burden to respond to Form SCI will be between one and 125 hours, depending upon the purpose for which the form is being filed. Any member of the public may direct to the Commission any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden.

Except with respect to notifications to the Commission made pursuant to Rule 1002(b)(1) or updates to the Commission made pursuant to Rule 1002(b)(3), it is mandatory that an SCI entity file all notifications, reviews, descriptions, analyses, and reports required by Regulation SCI using Form SCI. The Commission will keep the information collected pursuant to Form SCI confidential to the extent permitted by law. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522 (''FOIA''), and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

H. Exhibits

List of exhibits to be filed, as applicable:

Exhibit 1: Rule 1002(b)(2)—Notification of SCI Event. Within 24 hours of any responsible SCI personnel having a reasonable basis to conclude that the SCI event has occurred, the SCI entity shall submit a written notification pertaining to such SCI event to the Commission, which shall be made on a good faith, best efforts basis and include: (a) A description of the SCI event, including the system(s) affected; and (b) to the extent available as of the time of the notification: The SCI entity's current assessment of the types and number of market participants potentially affected by the SCI event; the potential impact of the SCI event on the market; a description of the steps the SCI entity has taken, is taking, or plans to take, with respect to the SCI event; the time the SCI event was resolved or timeframe within which the SCI event is expected to be resolved; and any other pertinent information known by the SCI entity about the SCI event.

Exhibit 2: Rule 1002(b)(4)—Final or Interim Report of SCI Event. When submitting a final report pursuant to either Rule 1002(b)(4)(i)(A) or Rule 1002(b)(4)(i)(B)(*2*), the SCI entity shall include: (a) A detailed description of: The SCI entity's assessment of the types and number of market participants affected by the SCI event; the SCI entity's assessment of the impact of the SCI event on the market; the steps the SCI entity has taken, is taking, or plans to take, with respect to the SCI event; the time the SCI event was resolved; the SCI entity's rule(s) and/or governing document(s), as applicable, that relate to the SCI event; and any other pertinent information known by the SCI entity about the SCI event; (b) a copy of any information disseminated pursuant to Rule 1002(c) by the SCI entity to date regarding the SCI event to any of its members or participants; and (c) an analysis of parties that may have experienced a loss, whether monetary or otherwise, due to the SCI event, the number of such parties, and an estimate of the aggregate amount of such loss. When submitting an interim report pursuant to Rule 1002(b)(4)(i)(B)(*1*), the SCI entity shall include such information to the extent known at the time.

Exhibit 3: Rule 1002(b)(5)(ii)—Quarterly Report of De Minimis SCI Events. The SCI entity shall submit a report, within 30 calendar days after the end of each calendar quarter, containing a summary description of systems disruptions and systems intrusions that have had, or the SCI entity reasonably estimates would have, no or a de minimis impact on the SCI entity's operations or on market participants, including the SCI systems and, for systems intrusions, indirect SCI systems, affected by such SCI events during the applicable calendar quarter.

Exhibit 4: Rule 1003(a)—Quarterly Report of Systems Changes. When submitting a report pursuant to Rule 1003(a)(1), the SCI entity shall provide a report, within 30 calendar days after the end of each calendar quarter, describing completed, ongoing, and planned material changes to its SCI systems and the security of indirect SCI systems, during the prior, current, and subsequent calendar quarters, including the dates or expected dates of commencement and completion. An SCI entity shall establish reasonable written criteria for identifying a change to its SCI systems and the security of indirect SCI systems as material and report such changes in accordance with such criteria. When submitting a report pursuant to Rule 1003(a)(2), the SCI entity shall provide a supplemental report of a material error in or material omission from a report previously

submitted under Rule 1003(a); provided, however, that a supplemental report is not required if information regarding a material systems change is or will be provided as part of a notification made pursuant to Rule 1002(b).

Exhibit 5: Rule 1003(b)(3)—Report of SCI Review. The SCI entity shall provide a report of the SCI review, together with any response by senior management, within 60 calendar days after its submission to senior management of the SCI entity.

Exhibit 6: Optional Attachments. This exhibit may be used in order to attach other documents that the SCI entity may wish to submit as part of a Rule 1002(b)(1) initial notification submission or Rule 1002(b)(3) update submission.

I. Explanation of Terms

Critical SCI systems means any SCI systems of, or operated by or on behalf of, an SCI entity that: (a) Directly support functionality relating to: (1) Clearance and settlement systems of clearing agencies; (2) openings, reopenings, and closings on the primary listing market; (3) trading halts; (4) initial public offerings; (5) the provision of market data by a plan processor; or (6) exclusively-listed securities; or (b) provide functionality to the securities markets for which the availability of alternatives is significantly limited or nonexistent and without which there would be a material impact on fair and orderly markets.

Indirect SCI systems means any systems of, or operated by or on behalf of, an SCI entity that, if breached, would be reasonably likely to pose a security threat to SCI systems.

Major SCI event means an SCI event that has had, or the SCI entity reasonably estimates would have: (a) Any impact on a critical SCI system; or (b) a significant impact on the SCI entity's operations or on market participants.

Responsible SCI personnel means, for a particular SCI system or indirect SCI system impacted by an SCI event, such senior manager(s) of the SCI entity having responsibility for such system, and their designee(s).

SCI entity means an SCI self-regulatory organization, SCI alternative trading system, plan processor, ~~or~~ exempt clearing agency subject to ARP, or competing consolidator.

SCI event means an event at an SCI entity that constitutes: (a) A systems disruption; (b) a systems compliance issue; or (c) a systems intrusion.

SCI review means a review, following established procedures and standards, that is performed by objective personnel having appropriate experience to conduct reviews of SCI systems and indirect SCI systems, and which review contains: (a) A risk assessment with respect to such systems of an SCI entity; and (b) an assessment of internal control design and effectiveness of its SCI systems and indirect SCI systems to include logical and physical security controls, development processes, and information technology governance, consistent with industry standards.

SCI systems means all computer, network, electronic, technical, automated, or similar systems of, or operated by or on behalf of, an SCI entity that, with respect to securities, directly support trading, clearance and settlement, order routing, market data, market regulation, or market surveillance.

Systems Compliance Issue means an event at an SCI entity that has caused any SCI system of such entity to operate in a manner that does not comply with the Act and the rules and regulations thereunder or the entity's rules or governing documents, as applicable.

Systems Disruption means an event in an SCI entity's SCI systems that disrupts, or significantly degrades, the normal operation of an SCI system.

Systems Intrusion means any unauthorized entry into the SCI systems or indirect SCI systems of an SCI entity.

By the Commission.

Dated: February 14, 2020.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2020–03760 Filed 3–23–20; 8:45 am]

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