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Presidential Documents

Title 3—

The President

Proclamation 10119 of November 13, 2020

American Education Week, 2020

By the President of the United States of America

A Proclamation

Education empowers students of all ages to reach their full potential and plays a fundamental role in developing a strong workforce and informed citizenry. Our Nation is currently enduring an unprecedented academic year, but our commitment to the safe reopening of schools and the expansion of school choice programs nationwide remains steadfast. As we celebrate the 99th anniversary of American Education Week, I encourage States, districts, and school boards across the country to embrace creative, personalized approaches to learning, and to ensure that students are at the center of all of their educational endeavors.

This year, students, teachers, and administrators have faced extraordinary challenges. Nevertheless, we must recognize that our children's physical, mental, and emotional well-being depend so much on their access to schools. Studies show that children are at very low risk of serious illness from the coronavirus, while the harms of delaying their return to in-person instruction are grave. As President, I have taken unprecedented action to ensure that classrooms are safe so that students can return to school and resume learning amongst their peers. My Administration fought for billions of dollars in funding for local school districts for personal protective equipment, increased cleaning services, and other critical resources and is providing States with millions of revolutionary point-of-care tests that deliver highly accurate results in minutes. Whether in the classroom or at home, I am committed to fighting for whatever is needed to ensure quality education for every American student.

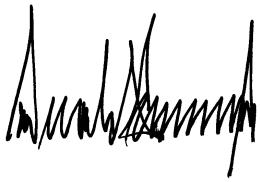
As a result of thousands of schools transitioning to some form of remote learning, parents are gaining expanded insight into our Nation's inadequate education system. For too many families, the pandemic has served as a stark reminder that an antiquated, agenda-driven, one-size-fits-all approach to education simply does not work. Instead, parents desire greater control over how their tax dollars are spent, and American families demand more options and more autonomy over their children's education. Whether they choose public, private, magnet, charter, parochial, or home schools, I am fighting to expand every family's choices in our Nation's education system. Last year, I signed the Secure Act to broaden how families could spend the funds in tax-free college savings accounts. And just this July, my Administration awarded new funding to the successful DC Opportunity Scholarship Program, so disadvantaged students in our Nation's capital can attend the school of their choice. These actions are part of our continued efforts to empower parents and encourage educational innovation at the State and local levels, because in the land of the free, a child's zip code should never play any role in determining their educational potential.

During this American Education week, we especially celebrate the teachers, community leaders, parents, and advocates that shape the futures of our country's children. They play an essential and powerful role in developing Americans of character who are capable of enhancing our country's culture, society, and economy. As our Nation's teachers and students navigate an unprecedented school year, we must all recommit to providing students

with lifelong learning opportunities and supplying them with the tools they need to achieve success.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 15 through November 21, 2020, as American Education Week. I commend our Nation's schools, their teachers and leaders, and the parents of students across this land. And I call on States and communities to support high-quality education to meet the needs of all students.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of November, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fifth.



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Rules and Regulations

Federal Register

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

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

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 615, and 621

RIN 3052–AD09

Criteria To Reinstate Non-Accrual Loans

AGENCY: Farm Credit Administration.

ACTION: Notification of effective date.

SUMMARY: The Farm Credit Administration (FCA or we) issued a final rule amending regulations governing how high-risk loans within the Farm Credit System are classified as being in nonaccrual status and revising related reinstatement criteria. In accordance with the law, the effective date of the rule is no earlier than 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session.

DATES: The regulation amending 12 CFR parts 611, 615, and 621 published on August 25, 2020 (85 FR 52248) is effective on October 21, 2020.

FOR FURTHER INFORMATION CONTACT:

Technical information: Ryan Leist, Senior Accountant, Office of Regulatory Policy, (703) 883–4223, TTY (703) 883–4056, *leistr@fca.gov.*

Legal information: Laura McFarland, Senior Counsel, Office of General Counsel, (703) 883–4020, TTY (703) 883–4056, *mcfarlandl@fca.gov.*

SUPPLEMENTARY INFORMATION: On August 25, 2020, FCA issued a final rule to enhance the usefulness of high-risk loan categories; replace the subjective measure of ''reasonable doubt'' used for reinstating loans to accrual status with a measurable standard; improve the timely recognition of a change in a loan's status; and update existing terminology and make other grammatical changes.

In accordance with 12 U.S.C. 2252(c)(1), the effective date of the rule is no earlier than 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is October 21, 2020.

Dated: October 26, 2020.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2020–24005 Filed 11–17–20; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1019; Product Identifier 2020–NM–104–AD; Amendment 39–21328; AD 2020–23–12]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–1041 airplanes. This AD was prompted by a report that, during testing, wear was found on the drive strut anti-rotation knuckles and lever bearing assembly (LBA) bushes on a certain flap station. This AD requires repetitive inspections for wear or corrosion damage of the drive strut anti-rotation knuckles and LBA bushes, and applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective December 3, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 3, 2020.

The FAA must receive comments on this AD by January 4, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this IBR material on the EASA website at *https://ad.easa.europa.eu*. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1019.

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–2020–1019; 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 listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0126, dated June 3, 2020 (''EASA AD 2020–0126'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct

an unsafe condition for all Airbus SAS Model A350–1041 airplanes.

This AD was prompted by a report that, during testing, wear was found on the drive strut anti-rotation knuckles and LBA bushes on a certain flap station. The FAA is issuing this AD to address wear and corrosion damage in the primary structure, which could result in detachment of the outer flap during flight and possible damage to or reduced control of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0126 describes procedures for repetitive inspections for wear or corrosion damage, or surface protection removal of the drive strut anti-rotation knuckles and LBA bushes (which includes measuring the gap between the LBA and the drive strut and re-greasing), corrective action (including repair; applying a witness mark to the LBA to monitor possible movement; applying grease; replacing the drive strut and LBA; or turning and reinstalling the drive strut), and inspection reports. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD because the FAA evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in the MCAI described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0126 is incorporated by reference in this final rule. This AD, therefore, requires compliance with EASA AD 2020–0126 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0126 that is required for compliance with EASA AD 2020–0126 is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1019.

FAA's Justification and Determination of the Effective Date

Since there are currently no domestic operators of these products, notice and opportunity for public comment before issuing this AD are unnecessary. In addition, for the reason stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–1019; Product Identifier 2020–NM–104–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will consider all comments received by the closing date and may amend this AD based on those comments.

The FAA will post all comments the FAA receives, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact the FAA receives about this AD.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product
5 work-hours × $85 per hour = $425 per inspection	$0	$425 per inspection.

* Table does not include estimated costs for reporting.

The FAA estimates that it takes about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $85 per product.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in our cost estimate.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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

The FAA determined that 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, and

(2) Will not affect intrastate aviation in Alaska.

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):

2020–23–12 Airbus SAS: Amendment 39–21328; Docket No. FAA–2020–1019; Product Identifier 2020–NM–104–AD.

(a) Effective Date

This AD becomes effective December 3, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–1041 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by report that, during testing, wear was found on the drive strut anti-rotation knuckles and lever bearing assembly (LBA) bushes on a certain flap station. The FAA is issuing this AD to address wear and corrosion damage in the primary structure, which could result in detachment of the outer flap during flight and possible damage to or reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0126, dated June 3, 2020 (''EASA AD 2020–0126'').

(h) Exceptions to EASA AD 2020–0126

(1) Where EASA AD 2020–0126 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0126 does not apply to this AD.

(3) Paragraph (4) of EASA AD 2020–0126 specifies to report inspection results to Airbus within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(3)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight

Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2020–0126 that contains RC procedures and tests: Except as required by paragraphs (h)(3) and (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory as required by this AD. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(j) Related Information

For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0126, dated June 3, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0126, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1019.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued on November 4, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–25386 Filed 11–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0582; Product Identifier 2020–NM–059–AD; Amendment 39–21326; AD 2020–23–10]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2014–26–07 and AD 2019–07–01 which apply to Dassault Aviation Model FAN JET FALCON and FAN JET FALCON SERIES C, D, E, F, and G airplanes. AD 2019–07–01 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 23, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 23, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 24, 2019 (84 FR 16390, April 19, 2019).

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this IBR material on the EASA website at *https://ad.easa.europa.eu*. For the Dassault Aviation material identified in this AD that continues to be IBR, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *https://www.dassaultfalcon.com*. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0582.

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–2020–0582; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The 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: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0141, dated June 17, 2019 (''EASA AD 2019–0141'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation Model FAN JET FALCON and FAN JET FALCON SERIES C, D, E, F, and G airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–07–01, Amendment 39–19612 (84 FR 16390, April 19, 2019) (''AD 2019–07–01'') and AD 2014–26–07, Amendment 39–18058 (80 FR 2815, January 21, 2015) (''AD 2014–26–07''). AD 2019–07–01 applied to certain Dassault Aviation Model FAN JET FALCON and FAN JET FALCON SERIES C, D, E, F, and G airplanes. The NPRM published in the **Federal Register** on July 15, 2020 (85 FR 42746). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in an EASA AD.

The FAA is issuing this AD to address, among other things, fatigue cracking and damage in principal structural elements; such fatigue cracking and damage could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0141 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires Chapter 5–40, Airworthiness Limitations, DGT 131028, Revision 17, dated September 2017, of the Dassault Aviation Falcon 20 Maintenance Manual, which the Director of the Federal Register approved for incorporation by reference as of May 24, 2019 (84 FR 16390, April 19, 2019).

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 168 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2019–07–01 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. In the past, the agency has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. The FAA estimates the total cost per operator for the new proposed actions to be $7,650 (90 work-hours × $85 per work-hour).

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:

■ a. Removing Airworthiness Directive (AD) 2014–26–07, Amendment 39–18058 (80 FR 2815, January 21, 2015); and AD 2019–07–01, Amendment 39–19612 (84 FR 16390, April 19, 2019); and

■ b. Adding the following new AD:

2020–23–10 Dassault Aviation: Amendment 39–21326; Docket No. FAA–2020–0582; Product Identifier 2020–NM–059–AD.

(a) Effective Date

This airworthiness directive (AD) is effective December 23, 2020.

(b) Affected ADs

This AD replaces AD 2014–26–07, Amendment 39–18058 (80 FR 2815, January 21, 2015) (''AD 2014–26–07''); and AD 2019–

07–01, Amendment 39–19612 (84 FR 16390, April 19, 2019) (''AD 2019–07–01'').

(c) Applicability

This AD applies to the Dassault Aviation airplanes specified in paragraphs (c)(1) and (2) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0141, dated June 17, 2019 (''EASA AD 2019–0141'').

(1) Model FAN JET FALCON airplanes.

(2) Model FAN JET FALCON SERIES C, D, E, F, and G airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address, among other things, fatigue cracking and damage in principal structural elements; such fatigue cracking and damage could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Maintenance or Inspection Program Revision, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2019–07–01, with no changes. Within 12 months after May 24, 2019 (the effective date of AD 2019–07–01), revise the existing maintenance or inspection program, as applicable, to incorporate the airworthiness limitations and maintenance requirements specified in Chapter 5–40, Airworthiness Limitations, DGT 131028, Revision 17, dated September 2017, of the Dassault Aviation Falcon 20 Maintenance Manual. The initial compliance time for accomplishing the actions is at the applicable time specified in Chapter 5–40, Airworthiness Limitations, DGT 131028, Revision 17, dated September 2017, of the Dassault Aviation Falcon 20 Maintenance Manual or within 12 months after May 24, 2019, whichever occurs later. Where the threshold column in the table in paragraph B, Mandatory Maintenance Operations, of Chapter 5–40, Airworthiness Limitations, DGT 131028, Revision 17, dated September 2017, of the Dassault Aviation Falcon 20 Maintenance Manual specifies a compliance time in years, those compliance times are since the date of issuance of the original French or EASA airworthiness certificate or date of issuance of the original French or EASA export certificate of airworthiness. Accomplishing the maintenance or inspection program revision required by paragraph (i) of this AD terminates the requirements of this paragraph.

(h) Retained Restrictions on Alternative Actions and Intervals With a New Exception

This paragraph restates the requirements of paragraph (h) of AD 2019–07–01, with a new exception. Except as required by paragraph (i) of this AD, after accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

(i) New Maintenance or Inspection Program Revision

Except as specified in paragraph (j) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0141. Accomplishing the maintenance or inspection program revision required by this paragraph terminates the requirements of paragraph (g) of this AD.

(j) Exceptions to EASA AD 2019–0141

(1) The requirements specified in paragraphs (1), (2), (4), and (5) of EASA AD 2019–0141 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2019–0141 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations, tasks and associated thresholds and intervals'' specified in paragraph (3) of EASA AD 2019–0141 within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2019–0141 is at the applicable ''associated thresholds'' specified in paragraph (3) of EASA AD 2019–0141, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The ''Remarks'' section of EASA AD 2019–0141 does not apply to this AD.

(k) New Provisions for Alternative Actions and Intervals

After the maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed except as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2019–0141.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (m) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*.

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

(ii) AMOCs approved previously for AD 2019–07–01 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0141 that are required by paragraph (g) of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov*.

(n) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on December 23, 2020.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0141, dated June 17, 2019.

(ii) [Reserved]

(4) The following service information was approved for IBR on May 24, 2019 (84 FR 16390, April 19, 2019).

(i) Chapter 5–40, Airworthiness Limitations, DGT 131028, Revision 17, dated September 2017, of the Dassault Aviation Falcon 20 Maintenance Manual.

(ii) [Reserved]

(5) For EASA AD 2019–0141, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*.

(6) For Dassault Aviation material, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *https://www.dassaultfalcon.com*.

(7) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0582.

(8) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued on November 4, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–25387 Filed 11–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1024; Project Identifier MCAI–2020–01401–T; Amendment 39–21330; AD 2020–23–13]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Regional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all ATR—GIE Avions de Transport Regional Airplanes Model ATR42–200, –300, and –320 airplanes. This AD was prompted by false activation of the stall warning system due to wiring damage on the wire bundle between an angle of attack (AOA) probe and the crew alerting computer. This AD requires a one-time inspection for discrepancies of the wire bundles between the left- and right-hand AOA probes and the crew alerting computer, and, depending on findings, applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective December 3, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 3, 2020.

The FAA must receive comments on this AD by January 4, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this IBR material on the EASA website at *https://ad.easa.europa.eu*. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1024.

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–2020–1024; 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 listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220; email: *shahram.daneshmandi@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0221, dated October 13, 2020 (EASA AD 2020–0221) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all ATR—GIE Avions de Transport Regional Airplanes Model ATR42–200, –300, and –320 airplanes.

This AD was prompted by false activation of the stall warning system due to wiring damage on the wire bundle between an AOA probe and the crew alerting computer. Such activation can lead to one or a combination of the following events:

- Autopilot disconnection;
- Stick pusher activation;
- Stick shaker activation;
- Aural stall warning (cricket audio alert);
- Master CAUTION light flashing amber;
- STICK PUSHER green light ON;
- FLT CTL amber light on CAP;
- Stick PUSHER/SHAKER pushbutton 'FAULT' amber light illumination;
- Whooler Audio alert.

The FAA is issuing this AD to address this condition, which could result in loss of control of the airplane during take-off and landing phases. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0221 describes procedures for a one-time detailed visual inspection of the wire bundles between the left- and right-hand AOA probes and the crew alerting computer for discrepancies (including, but not limited to, wire damage, missing or damaged conduits, and incorrect routing of wiring and conduits), and, depending on findings, applicable corrective actions.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD because the FAA evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2020–0221 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance

with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0221 is incorporated by reference in this final rule. This AD, therefore, requires compliance with EASA AD 2020–0221 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0221 that is required for compliance with EASA AD 2020–0221 is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1024.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because false activation of the stall warning system could result in loss of control of the airplane during take-off and landing phases. In addition, the compliance time for the required action is shorter than the time necessary for the public to comment and for publication of the final rule. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2020–1024; Project Identifier MCAI–2020–01401–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220; email: *shahram.daneshmandi@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 26 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 10 work-hours × $85 per hour = Up to $850	$0	Up to $850	Up to $22,100.

* Table does not include estimated costs for reporting.

The FAA estimates that it takes about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $85, or $85 per product.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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

The FAA determined that 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, and

(2) Will not affect intrastate aviation in Alaska.

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:

2020–23–13 ATR—GIE Avions de Transport Regional: Amendment 39–21330; Docket No. FAA–2020–1024; Project Identifier MCAI–2020–01401–T.

(a) Effective Date

This airworthiness directive (AD) becomes effective December 3, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all ATR—GIE Avions de Transport Regional Airplanes Model ATR42–200, –300, and –320 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 31, Instruments.

(e) Reason

This AD was prompted by false activation of the stall warning system due to wiring damage on the wire bundle between an angle of attack (AOA) probe and the crew alerting computer. The FAA is issuing this AD to address this condition, which could result in loss of control of the airplane during take-off and landing phases.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0221, dated October 13, 2020 (EASA AD 2020–0221).

(h) Exceptions to EASA AD 2020–0021

(1) Where EASA AD 2020–0221 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0221 does not apply to this AD.

(3) Paragraph (3) of EASA AD 2020–0221 specifies to report inspection results to ATR within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(3)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or ATA's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory as required by this AD. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(j) Related Information

For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220; email: *shahram.daneshmandi@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0221, dated October 13, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0221, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the

availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1024.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on November 6, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–25379 Filed 11–17–20; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1241

[Document Number NASA–20–091; Docket Number-NASA–2020–0001]

RIN 2700–AE51

To Research, Evaluate, Assess, and Treat (TREAT) Astronauts

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is adopting, without change, an interim rule that implements the provisions of the TREAT Astronauts Act to provide for the medical monitoring and diagnosis of conditions that are potentially spaceflight-associated and treatment of conditions that are spaceflight-associated for former U.S. Government astronauts and payload specialists.

DATES: *Effective:* November 18, 2020.

FOR FURTHER INFORMATION CONTACT: Gwyn E. Smith, Manager, Policy Development and Integration, Office of the Chief Health and Medical Officer, 202.358.0584.

SUPPLEMENTARY INFORMATION:

I. Background

NASA published an interim rule in the **Federal Register** at 85 FR 15352 on March 18, 2020, that implements the provisions of the TREAT Astronauts Act. The rule provides for the medical monitoring and diagnosis of conditions that are potentially spaceflight-associated and treatment of conditions that are spaceflight-associated for former U.S. Government astronauts and payload specialists. NASA is adopting this interim rule as a final rule without change.

II. Public Comment Discussion

NASA issued interim final rule, ''To Research, Evaluate, Assess, and Treat (TREAT) Astronauts,'' which was published in the **Federal Register** on March 18, 2020 (85 FR 15352). The public comment period on the interim final rule closed on May 18, 2020, and NASA received six comments from two former astronauts, three individuals interested in former astronaut health care, and an individual from Taiwan who asked a question about Formosan astronauts, not related to this rule. No significant issues or questions were raised by the commenters and no changes were made to the rule. Relevant questions and comments presented are addressed in routine communications with the former astronauts. NASA would like to thank all commenters for their thoughtful responses.

One commenter recommended rewording the definition of ''spaceflight associated condition'' to make it more understandable, specifically asking what the phrase ''determines is at least as likely as not to have resulted from participation in spaceflight-related activities'' meant. NASA, when making determinations on the association between health outcomes and occupational exposures related to spaceflight, relies on available evidence, including an individual's clinical history, epidemiological assessments, and data from human research, as well as expert medical opinion. Because direct causation is very difficult to establish in many cases, a determination of presumptive association between spaceflight and a health outcome requires that the evidence and expert medical opinion together suggest that the spaceflight exposures received by an individual are as likely to cause the health outcome, as to not cause the health outcome. The focus of NASA's inquiry is whether spaceflight exposures contributed to the health condition, not all other possible exposures. Using ''at least as likely as not'' as the criterion for decision making lowers the threshold for determining an association between spaceflight exposures and health outcomes, accounting for possible uncertainties involved in making such a determination. NASA chose this approach based on the processes used by other Federal agencies who must make similar determinations when direct causation cannot otherwise be established.

Another commenter had several questions about specifically how NASA would implement this rule, asking how a former astronaut would know what conditions would be considered related to spaceflight and if the NASA Flight Medicine Clinic would be an advocate on their behalf. NASA is developing internal policy and procedures for NASA employees necessary to implement this rule. In addition, NASA will continue to communicate with former astronauts through multiple media, including the annual astronaut reunion, newsletters, online via the Life Sciences Data Archive, and NASA TREAT Astronauts Act websites, as well as personal communications with former astronauts.

Several commenters offered supporting thoughts such as, ''. . . the TREAT Astronauts Act as nothing but a resourceful and helpful program . . .'' and ''To gain more support to pass this rule, I recommend ensuring more scientists and doctors will be hired at NASA to observe former astronauts and payload specialists, so that this effort does not take away from other important NASA programs'' and asked how this Act would increase former astronaut participation and to elaborate on the differences between the Lifetime Surveillance of Astronaut Health (LSAH) program and TREAT Astronauts Act. NASA appreciates the support for this rule and provides detailed information to former astronauts on the specifics of the implementation of this rule. NASA anticipates increased participation from former astronauts, based on discussions with them as to the benefits of the program and to future astronauts. The LSAH program provides lifetime monitoring for former astronauts while the TREAT Astronauts Act provides funding for treatment of spaceflight associated conditions. More details can be found at *https://www.nasa.gov/hhp/treat-act.*

III. Regulatory Analysis Section

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

Executive Orders (E.O.) 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, reducing costs, harmonizing rules, and promoting flexibility. This rule is not a significant regulatory action and has not been reviewed by the Office of Management

and Budget in accordance with E.O. 12866.

Executive Order 13771—Reducing Regulations and Controlling Regulatory Costs

This rule is not an E.O. 13771 regulatory action because final 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 have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements are found under Office of Management and Budget control number 2700–0171, NASA TREAT Astronauts Act.

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 1241

Astronaut, Health, Medical.

Interim Rule Adopted as Final Without Change

PART 1241—TO RESEARCH, EVALUATE, ASSESS, AND TREAT (TREAT) ASTRONAUTS

Accordingly, the interim rule adding 14 CFR part 1241 which was published at 85 FR 15352 on March 18, 2020, is adopted as final without change.

Nanette Smith,

Team Lead, NASA Directives and Regulations.

[FR Doc. 2020–24639 Filed 11–17–20; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 748, 750, 758, 762, 764, and 766

[Docket No. 201110–0299]

RIN 0694–AH81

Revisions to Export Enforcement Provisions

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) is amending and clarifying certain provisions of the Export Administration Regulations (EAR) to promote compliance with existing EAR requirements and implement the export enforcement portions of the Export Control Reform Act of 2018 (ECRA). ECRA affirmed existing authorities under the EAR and provided expanded export control authorities to the Secretary of Commerce (Secretary). BIS is also amending certain provisions of the EAR not strictly related to the implementation of ECRA concerning the issuance of licenses and denial orders and the payment of civil penalties.

DATES: This rule is effective November 18, 2020.

FOR FURTHER INFORMATION CONTACT: John Sonderman, Director, Office of Export Enforcement, Bureau of Industry and Security, Phone: (202) 482–5079, Email: *EEinquiry@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852). In its enactment, ECRA repealed most of the Export Administration Act of 1979 (EAA), which had lapsed. ECRA continues existing authorities under the EAR that had been issued pursuant to, and been maintained in force under, the EAA until its lapse, and thereafter under the International Emergency Economic Powers Act (IEEPA). ECRA provides the Secretary of Commerce (Secretary) with additional authorities to ensure the implementation of effective export controls in furtherance of U.S. national security and foreign policy interests.

Accordingly, BIS is amending the EAR to reflect enforcement authorities and to update certain EAR provisions to make them consistent with ECRA. These amendments include replacing existing references to the EAA currently in the EAR with references to ECRA and other export laws and regulations. There are also amendments to the EAR that reflect the expanded scope of authority provided to the Secretary in ECRA. Specifically, this rule amends the EAR to implement the following enforcement provisions: Pre-license checks (PLCs) and post-shipment verifications (PSVs) (in §§ 734.11 and 750.4 of the EAR); overseas investigative authority; searches, inspections, detentions, and seizures, and related authorities concerning exports, reexports, and transfers (in-country) (in § 734.11 of the EAR and in part 758 of the EAR, specifically in §§ 758.7, 758.8, and 758.9); inspection of books, records, and other information (in §§ 758.7 and 762.7 of the EAR); and violations and penalties under ECRA (in part 764 of the EAR, and specifically in §§ 748.4, 764.1, 764.2, 764.3, and 766.25).

Revisions to Enforcement Provisions To Implement ECRA

Pre-License Checks and Post-Shipment Verifications

In new § 734.11 of the EAR, BIS is including a reference to BIS's authority to conduct PLCs and PSVs outside the United States. BIS is also amending § 750.4(b)(2) of the EAR to clarify that the results of PLCs, when available, will be communicated to licensing officials within existing timeframes governing the conduct of PLCs, and will be considered in determining the outcome of a license application. These changes are consistent with ECRA section 1761(a)(7) (50 U.S.C. 4820(a)(7)), which sets forth the Secretary's authority to conduct PLCs and PSVs, and provide increased transparency regarding the purposes for which information is collected.

Inspection of Books, Records, and Other Information

BIS is amending § 762.7(a) of the EAR regarding the production for inspection of books, records, and other information required to be kept pursuant to the EAR by persons located within the United States to align with ECRA section 1761(a)(2) (50 U.S.C. 4820(a)(2)). This includes the removal of references to the authority of the U.S. Customs Service, which is not reflected in ECRA. This change does not affect the authorities of other agencies or officials under other statutes and regulations.

BIS is amending § 762.7(b) of the EAR to specify that persons located outside the United States must produce for inspection books and other information required to be kept pursuant to the EAR in addition to records as specified in ECRA section 1761(a)(2) (50 U.S.C. 4820(a)(2)). BIS is also specifying in § 762.7(b) of the EAR that only officials of the United States designated by BIS may rely on the authority in ECRA to require persons outside the United States to produce for inspection the books, records, and other information such persons are required to keep pursuant to the EAR. Consequently, BIS is removing from § 762.7(b) of the EAR the existing reference to requests for

records required to be kept pursuant to the EAR by a Foreign Service Post or the U.S. Customs Service. This change does not affect the authorities of other agencies or officials under other statutes and regulations.

Overseas Investigative Authority; Searches, Inspections, Detentions, and Seizures, and Related Authorities Concerning Exports, Reexports, and Transfers (In-Country) Both Within and Outside the United States

ECRA provides the Secretary the authority to conduct export enforcement investigations both within and outside the United States consistent with applicable law, as described in ECRA section 1761(a)(4) (50 U.S.C. 4820(a)(4)). Accordingly, BIS is adding § 734.11 to part 734 of the EAR entitled ''BIS Activities conducted outside the United States,'' which describes the manner in which such activities will be conducted.

BIS is renaming part 758 of the EAR as ''Export clearance requirements and authorities'' and renaming § 758.7 of the EAR as ''Authorities of the Bureau of Industry and Security, Office of Export Enforcement (OEE).'' As amended, these provisions more accurately describe the requirements for clearing export shipments and reflect the broader authorities of OEE, and other officials of the United States designated by OEE, including requirements for reexports and transfers (in-country).

BIS is also adding a new paragraph, (a)(4), to EAR § 758.7 to reflect the authority under ECRA section 1761(a) (50 U.S.C. 4820(a)) to enforce provisions of the EAR that restrict the activities of U.S. persons in connection with certain weapons of mass destruction-related end uses described in § 744.6 of the EAR.

BIS is updating and revising § 758.7(b) of the EAR to outline actions OEE may take to ensure that exports, reexports, and transfers (in-country) comply with all laws and regulations administered or enforced by the Secretary in conformance with section 1761(a)(4)–(5) of ECRA (50 U.S.C. 4820(a)(4), (5)), as well as 13 U.S.C. 305, 22 U.S.C. 401, the EAR, and the Foreign Trade Regulations (FTR) (15 CFR part 30).

Because the EAR are regulations implemented by the Secretary to carry out his express statutory authority in ECRA and 22 U.S.C. 401, BIS is removing reference to authorities granted to Postmasters and the U.S. Customs Service in §§ 758.7 and 758.8 of the EAR. This change does not affect the authorities of other agencies or officials under other statutes and regulations. BIS is also renaming § 758.8 of the EAR as ''Return or Unloading of Cargo.''

Under revised § 758.7(b)(2) of the EAR, OEE officials are authorized to require all persons subject to the export laws and regulations administered or enforced by the Secretary to produce books, records, and other information for inspection, consistent with ECRA section 1761(a)(2) (50 U.S.C. 4820(a)(2)).

Section 758.7(b)(6) of the EAR now addresses the provisions previously provided for in § 758.7(b)(7) and BIS is accordingly renaming § 758.7(b)(7) as ''Administrative Forfeiture Authority.'' BIS is revising § 758.7(b)(8) of the EAR to reflect that other legal and procedural principles may govern the conduct of BIS's enforcement activities. The authority to order the unloading of items previously described in § 758.7(b)(8), as well as the authority to order the return of cargo previously described in § 758.7(b)(9) is now set forth in § 758.8(b) of the EAR. Accordingly, BIS is removing § 758.7(b)(9) from the EAR. BIS is also removing § 758.7(b)(10) from the EAR as that provision previously described the authority of another agency, the U.S. Customs Service, to designate the time and place of export clearance, which is not reflected in ECRA. However, this change does not affect the authorities of other agencies or officials under other statutes and regulations.

Section 758.8(b) of the EAR is revised to specify actions a carrier must take to return and unload cargo when ordered by OEE and to clarify that OEE may order the return and unloading of cargo to ensure compliance with export laws and regulations administered or enforced by the Secretary. BIS is revising § 758.8(c) of the EAR to update references to relevant provisions of § 758.5 of the EAR.

Section 758.9 of the EAR is revised to clarify that the provisions of part 758 apply to certain activities of U.S. persons, in addition to exports, reexports, and transfers (in-country).

Violations and Penalties Under ECRA

BIS is making multiple amendments to part 764 of the EAR as well as § 748.4(c) of the EAR to align their provisions with ECRA section 1760 (50 U.S.C. 4819). Section 764.1 is revised to include references to conduct that violates ECRA, while retaining references to three sections of the EAA (sections 11A, B, and C) (50 U.S.C. 4611–4613), which remain in force. Section 764.2(f)—''Possession with intent to export illegally''—of the EAR is removed and reserved, as this provision is based on the lapsed EAA and is not carried forward in ECRA. The provisions related to criminal penalties for willful violations of the EAR previously set forth in § 764.3(b)(2) are relocated to § 764.3(b), while § 764.3(b)(2) and (3) are removed from the EAR. Supplement no. 1 to part 764 of the EAR is amended to include a prohibition on transfers (in-country) to, or on behalf of, a denied person in the terms of a standard denial order.

Revisions To Enforcement Provisions Unrelated to the Implementation of ECRA

BIS is making several additional changes to the EAR unrelated to the implementation of ECRA. First, consistent with existing language in § 748.4(d) of the EAR, BIS is amending § 750.7(a) of the EAR to clarify that any license obtained based on a false or misleading misrepresentation or the falsification or concealment of a material fact is void as of the date of issuance. Second, consistent with current BIS practice, BIS is amending § 764.3(a)(1)(ii) of the EAR to change the maximum time period for payment of civil penalties, as a condition of receiving certain privileges under the EAR, from one year to two years. Third, BIS is renaming § 764.3(c)(2)(ii) of the EAR to ''Actions by other agencies'' to reflect collateral actions that other U.S. government agencies may take with respect to persons based on indictment or conviction for criminal export control violations or the issuance of a denial order. BIS is also revising § 764.3(c)(2)(ii)(A) of the EAR to reflect more accurately when the Directorate of Defense Trade Controls, Department of State, may not issue licenses, or may deny licenses, involving certain parties indicted for, or convicted of, violations of certain statutes specified in the Arms Export Control Act (22 U.S.C. 2778(g)(1)(A)). Finally, BIS is amending § 766.25(a), (b), (c), and (h) of the EAR to specify that the Director of OEE is the designated BIS official for the issuance of orders denying the export privileges of persons convicted of certain criminal offenses; providing notification of the issuance of such orders to affected persons; and determining the terms of such orders, as well as their applicability to related persons. The authority to issue an authorization to engage in activities otherwise prohibited by the terms of a denial order will remain with the Director of the Office of Exporter Services (OExS), in consultation with the Director of OEE.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for

Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852) that provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C 3501 *et seq.*), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections currently approved by OMB under control numbers 0694–0096, ''Five Year Records Retention Period,'' and 0694–0122, ''Miscellaneous Licensing Responsibilities and Enforcement.'' Both collections include, among other things, the maintenance and production of certain records associated with exports, reexports, and transfers (in-country) subject to the EAR and carry burden estimates of less than one minute per transaction. This regulation does not change the scope of records currently required to be kept and made available for inspection by BIS. Accordingly, this regulation is not expected to increase or reduce the existing burden estimates currently associated with OMB control numbers 0694–0096 and 0694–0122. This regulation simply clarifies the circumstances under which persons already subject to recordkeeping and production requirements may be asked to make such records available for inspection. You may submit comments regarding the collections of information associated with this rule, including suggestions for reducing the burden, at the following website: *www.reginfo.gov/public/do/PRAMain.* Find the particular information collection by using the search function and entering OMB Control Number 0648–0096 or 0648–0122.

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

4. Pursuant to ECRA section 1762, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

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

List of Subjects

15 CFR Part 734

Scope of the Export Administration Regulations.

15 CFR Part 748

Applications (classification, advisory, and license) and documentation.

15 CFR Part 750

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 758

Export clearance requirements and authorities.

15 CFR Part 762

Recordkeeping.

15 CFR Part 764

Enforcement and protective measures.

15 CFR Part 766

Administrative practice and procedure, confidential business information, exports, law enforcement, penalties.

Accordingly, parts 734, 748, 750, 758, 762, 764 and 766 of the EAR are amended as follows:

PART 734—SCOPE OF THE EAR

■ 1. The authority citation for part 734 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 12, 2019, 84 FR 61817 (November 13, 2019).

■ 2. Add § 734.11 to read as follows:

§ 734.11 BIS activities conducted outside the United States.

The Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852) authorizes the Secretary of Commerce, in carrying out its provisions, to undertake activities outside the United States, including, but not limited to, conducting investigations; requiring and obtaining information from persons; and conducting pre-license checks and post-shipment verifications. BIS officials will act with due care in the jurisdiction of a foreign nation and, to the extent possible, consistent with the applicable host nation government's laws. For any action taken outside the United States, BIS officials will consult and coordinate with the appropriate U.S. Government agencies and act in a manner consistent with the United States' international commitments and international agreements to which the United States is a party.

PART 748—APPLICATIONS (CLASSIFICATION, ADVISORY, AND LICENSE) AND DOCUMENTATION

■ 3. The authority citation for part 748 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 4. Section 748.4 is amended by revising paragraph (c) to read as follows:

§ 748.4 Basic guidance related to applying for a license.

* * * * *

(c) *Prohibited from applying for a license.* No person subject to a denial order based on a conviction for a violation of any statute specified at 50 U.S.C. 4819(e)(1)(B) may apply for any license for a period up to 10 years from the date of the conviction. The duration of the prohibition shall be included as a term of the denial order. See § 766.25 of the EAR.

* * * * *

PART 750—APPLICATION PROCESSING, ISSUANCE, AND DENIAL

■ 5. The authority citation for part 750 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 1701 *et seq.;* Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 13026, 61 FR 58767, 3 CFR,

1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320.

■ 6. Section 750.4 is amended by revising paragraph (b)(2) to read as follows:

§ 750.4 Procedures for processing license applications.

* * * * *

(b) * * *

(2) *Pre-license checks.* BIS conducts pre-license checks in order to establish the identity and reliability of the recipient of the items subject to the EAR that require a license, as well as to substantiate representations made on the license application. The results of the pre-license check, including the U.S. government's inability to conduct the pre-license check due to the end user's or host government's actions, will be considered in determining the outcome of a license application. The time required to conduct a pre-license check is not included in license application processing time calculations according to this paragraph, if the pre-license check is:

(i) Conducted through government channels, and

(ii) The request for a pre-license check is made by the Secretary or by another agency within the following time frames:

(A) The pre-license check is requested within 5 days of the determination that it is necessary; and

(B) The analysis resulting from the pre-license check is completed and reported to licensing officials within 5 days.

* * * * *

■ 7. Section 750.7 is amended by revising paragraph (a) to read as follows:

§ 750.7 Issuance of licenses.

(a) *Scope.* Unless limited by a condition set out in a license, the export, reexport, or transfer (in-country) authorized by a license is for the item(s), end-use(s), and parties described in the license application and any letters of explanation. The applicant must inform the other parties identified on the license, such as the ultimate consignees and end users, of the license's scope and of the specific conditions applicable to them. BIS grants licenses in reliance on representations the applicant made or submitted in connection with the license application, letters of explanation, and other documents submitted. Any license obtained in which a false or misleading representation was made, or a material fact was falsified or concealed on the license application, letters of explanation, or any document submitted in connection with the license application, shall be deemed void as of the date of issuance. See § 750.8(a) of the EAR, which provides that all licenses are subject to revocation, in whole or in part, without notice. See part 764 of the EAR for other sanctions that may result in the event a violation occurs. A BIS license authorizing the release of ''technology'' to an entity also authorizes the release of the same ''technology'' to the entity's foreign persons who are permanent and regular employees (and who are not proscribed persons) of the entity's facility or facilities authorized on the license, except to the extent a license condition limits or prohibits the release of the ''technology'' to foreign persons of specific countries or country groups.

* * * * *

PART 758—EXPORT CLEARANCE REQUIREMENTS AND AUTHORITIES

■ 8. The authority citation for part 758 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 1701 *et seq.;* 13 U.S.C. 305, 22 U.S.C. 401; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 9. The heading for part 758 is revised to read as set forth above.

■ 10. Section 758.7 is revised to read as follows:

§ 758.7 Authorities of the Bureau of Industry and Security, Office of Export Enforcement (OEE).

(a) *Actions to assure compliance with export laws and regulations.* OEE officials and any other officials of the United States designated by OEE are authorized and directed to take appropriate action to enforce the authorities granted to the Secretary under the laws and regulations of the United States, including ECRA, 13 U.S.C. 305, 22 U.S.C. 401, 50 U.S.C. 1701 *et seq.,* the EAR, and the Foreign Trade Regulations (FTR) (15 CFR part 30). This includes, but is not limited to, assuring that:

(1) Exports, reexports, and transfers (in-country) without a license issued by BIS are either outside the scope of the license requirements of the EAR or authorized by a license exception and comply with the terms of the license exception;

(2) Exports, reexports, transfers (in-country) purporting to be authorized by licenses issued by BIS are, in fact, so authorized and the transaction complies with the terms of the license;

(3) Accurate EEI filings have been made for exports as required by this part, the FTR, and other federal regulations; and

(4) The activities of U.S. persons, wherever located, which are subject to a license requirement pursuant to § 744.6 of the EAR, are authorized by and comply with the terms of a BIS license.

(b) *Types of actions.* In carrying out the authorities granted to, and exercised by, the Secretary pursuant to ECRA, 13 U.S.C. 305, 22 U.S.C. 401, 50 U.S.C. 1701 *et seq.,* the EAR, the FTR, and other applicable laws and regulations of the United States, including the authority to control the export, reexport, and transfer (in-country) of items, in any form, subject to the jurisdiction of the United States, whether by U.S. or foreign persons; control the activities of U.S. persons, wherever located, as described in § 744.6 of the EAR; ensure compliance with export controls; monitor shipments and other means of transfer; conduct investigations; and issue orders, OEE officials and any other officials of the United States designated by OEE are authorized to take the types of enforcement actions described below.

(1) *Inspection, search, and detention of items*—(i) *Purpose of inspection, search, and detention.* All items subject to export laws and regulations administered or enforced by the Secretary that have been, are being, or are about to be exported, reexported, or transferred (in-country) are subject to inspection, search, and detention. The scope of inspection may include, but is not limited to, item identification; technical appraisal (analysis) or both; verifying the accuracy of the EEI filing, or if there is no EEI filing, the air waybill, bill of lading or other loading document covering the item about to be exported, reexported, or transferred (in-country); and verifying the value and quantity of such item.

(ii) *Place of inspection, search, and detention.* Inspection, search, and detention may take place at any location inside or outside of the United States, to include, but not limited to, the borders of the United States, all ports of exit, the premises of freight forwarders, bonded warehouses, foreign trade zones, and manufacturing, transportation, and storage facilities.

(iii) *Technical identification.* Where, in the judgment of the official making the inspection, the item cannot be properly identified, a sample may be taken for more detailed examination or for laboratory analysis.

(A) *Obtaining samples.* The sample will be obtained by the official making the inspection in accordance with the provisions for sampling imported merchandise. The size of the sample

will be the minimum representative amount necessary for identification or analysis. This will depend on such factors as the physical condition of the material (whether solid, liquid, or gas) and the size and shape of the container.

(B) *Notification.* When a sample is taken, the exporter, reexporter, or transferor, or their agent(s), and the ultimate consignee will be notified by letter from an OEE official, documenting the port of export, reexport, or other place of inspection, date of sampling, BIS license number (if any) or other authorization, invoice number, quantity of sample taken, description of item, marks and packing case numbers, and manufacturer's number for the item. A copy of the letter will be placed in the container that had been opened by the inspecting official, and a copy will be retained by the inspecting official's office.

(C) *Disposal of samples.* Samples will be disposed of in accordance with the U.S. Customs and Border Protection procedure for imported commodities.

(2) *Inspection and production of books, records, and other information.* OEE officials are authorized to require any person subject to export laws and regulations administered or enforced by the Secretary, including, but not limited to, exporters, reexporters, transferors, or their agent(s), and owners and operators of carriers or their agents, as well as intermediate consignees, ultimate consignees, and end users, and their agent(s) to produce for inspection and copying any books, records and other information, including, but not limited to, invoices, orders, letters of credit, inspection reports, technical documentation, packing lists, shipping documents and instructions, and correspondence.

(3) *Questioning of individuals.* OEE officials are authorized to question any person, including, but not limited to, the owner or operator of a carrier and the carrier's agent(s), as well as the exporter, reexporter, transferor (in-country), or their agent(s).

(4) *Prohibiting lading.* OEE officials may prevent the lading of items on a conveyance.

(5) *Inspection, search, and detention of conveyance.* OEE officials are authorized to inspect, search, and detain any conveyance at any time to determine whether items have been, are being, or are about to be exported, reexported, or transferred (in-country). Inspection, search, and detention of a conveyance may take place at any location inside or outside of the United States, to include, but not limited to, the borders of the United States, all ports of exit, the premises of freight forwarders, bonded warehouses, foreign trade zones, and manufacturing, transportation, and storage facilities.

(6) *Seizure of property.* OEE officials are authorized to seize any property, tangible or intangible, when there is probable cause to believe that such property is subject to administrative forfeiture (nonjudicial civil forfeiture or summary forfeiture), civil judicial forfeiture, or criminal forfeiture. Seizures of property subject to forfeiture may take place at any location inside or outside of the United States, to include, but not limited to, the borders of the United States, all ports of exit, the premises of freight forwarders, bonded warehouses, foreign trade zones, and manufacturing, transportation, and storage facilities.

(7) *Administrative forfeiture authority.* OEE is authorized to initiate administrative forfeiture (nonjudicial civil forfeiture or summary forfeiture) proceedings and forfeit property in accordance with the procedures set forth in 18 U.S.C. 981(d) and the Customs laws (19 U.S.C. 1602 *et seq*).

(8) *Enforcement activity.* (i) All BIS actions taken to implement, administer, and enforce the authorities granted to the Secretary shall be conducted pursuant to the U.S. Constitution and all applicable laws and regulations, including judicially recognized exceptions to the requirement for a search warrant under the Fourth Amendment, for example, consent of the person to be searched, exigent circumstances, searches incident to a lawful arrest, and border searches.

(ii) BIS may enter into any such agreements (*e.g.,* memoranda of understanding) with other Federal agencies as deemed necessary by BIS to execute the authorities set forth in this part in a lawful and orderly manner.

(iii) BIS shall issue additional guidance as necessary to ensure the lawful and orderly execution of the Secretary's authorities.

(iv) Nothing in this section is intended to limit or abridge BIS law enforcement officers from exercising their lawful authority in carrying out their official duties.

■ 11. Section 758.8 is revised to read as follows:

§ 758.8 Return or unloading of cargo.

(a) *Carrier.* As used in this section, the term ''carrier'' includes a connecting or on-forwarding carrier, as well as the owner, charterer, agent, master, or any other person in possession, control, or charge of the vessel, aircraft, vehicle, or other kind of conveyance, whether such person is located in the United States or in a foreign country.

(b) *Ordering return or unloading of shipment.* In order to ensure compliance with export laws and regulations administered or enforced by the Secretary, OEE officials, or any other official of the United States designated by OEE, may, with respect to a particular export, reexport, or transfer (in-country), order any carrier to return or unload the shipment. For the purpose of this section, furnishing a copy of the order to any person included within the definition of carrier will be sufficient notice of the order to the carrier. The carrier must, as ordered:

(1) Unload the shipment and make it available to OEE officials for search and inspection; or

(2) Return the shipment to the United States or cause it to be returned; or

(3) Unload the shipment at a port of call and take steps to assure that it is placed in custody under bond or other guaranty not to enter the commerce of any foreign country without the prior approval of BIS.

(c) *Requirements regarding shipment to be unloaded.* The provisions of § 758.5(d) and (e) of this part, relating to reporting, notification to BIS, and the prohibition against unauthorized delivery or entry of the item into a foreign country shall apply also when items are unloaded at a port of call, as provided in paragraph (b)(3) of this section.

(d) *Notification.* Upon discovery by any person included within the term ''carrier,'' as defined in paragraph (a) of this section, that a violation of the export laws and regulations administered or enforced by the Secretary has occurred, is occurring, or is about to occur with respect to a shipment on board, or otherwise in the possession or control of the carrier, such person must immediately notify both:

(1) The Office of Export Enforcement at the following address: Room H–4508, U.S. Department of Commerce, 14th Street and Constitution Ave. NW, Washington, DC 20230, Telephone: (202) 482–1208, Facsimile: (202) 482–0964; and

(2) The person in actual possession or control of the shipment.

■ 12. Section 758.9 is revised to read as follows:

§ 758.9 Other applicable laws and regulations.

The provisions of this part apply only to exports, reexports, and transfers (in-country), as well as the activities of U.S. persons described in § 744.6 of the EAR, which are subject to the export laws and regulations administered or enforced by the Secretary. Nothing contained in this part shall relieve any person from

complying with any other law of the United States or rules and regulations issued thereunder, including those governing EEI filings to AES, manifests, or any other applicable rules and regulations.

PART 762—RECORDKEEPING

■ 13. The authority citation for part 762 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 14. Section 762.7 is revised to read as follows:

§ 762.7 Producing and inspecting records.

(a) *Persons located in the United States.* Persons located in the United States may be asked to produce books, records, and other information that are required to be kept by any provision of the EAR, or any license, order, or authorization issued thereunder and to make them available for inspection and copying by any authorized official of the BIS, or any other official of the United States designated by BIS, without any charge or expense to such official. OEE and the Office of Antiboycott Compliance encourage voluntary cooperation with such requests. When voluntary cooperation is not forthcoming, OEE and the Office of Antiboycott Compliance are authorized to issue subpoenas requiring persons to appear and testify, or to produce books, records, and other writings. In instances where a person does not comply with a subpoena, the Department of Commerce may petition a district court to have the subpoena enforced.

(b) *Persons located outside of the United States.* Persons located outside of the United States that are required to keep books, records, and other information by any provision of the EAR or by any license, order, or authorization issued thereunder shall produce all books, records, and other information required to be kept, or reproductions thereof, and make them available for inspection and copying upon request by an authorized official of BIS without any charge or expense to such official. BIS may designate any other official of the United States to exercise the authority of BIS under this subsection.

PART 764—ENFORCEMENT AND PROTECTIVE MEASURES

■ 15. The authority citation for part 764 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4611–4613; 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 16. Section 764.1 is revised to read as follows:

§ 764.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part specifies conduct that constitutes a violation of the ECRA and/or the EAR and the sanctions that may be imposed for such violations. Antiboycott violations are described in part 760 of the EAR, and the violations and sanctions specified in part 764 also apply to conduct relating to part 760, unless otherwise stated. This part describes administrative sanctions that may be imposed by BIS. This part also describes criminal sanctions that may be imposed by a United States court and other sanctions that are neither administrative nor criminal pursuant to sections 11A, B, and C of the Export Administration Act EAA and other statutes. Information is provided on how to report and disclose violations. Finally, this part identifies protective administrative measures that BIS may take in the exercise of its regulatory authority.

■ 17. Section 764.2 is revised to read as follows:

§ 764.2 Violations.

(a) *Engaging in prohibited conduct.* No person may engage in any transaction or take any other action prohibited by or contrary to, or refrain from engaging in any transaction or take any other action required by ECRA, the EAR, or any order, license or authorization issued thereunder.

(b) *Causing, aiding, or abetting a violation.* No person may cause or aid, abet, counsel, command, induce, procure, permit, or approve the doing of any act prohibited, or the omission of any act required, by ECRA, the EAR, or any order, license or authorization issued thereunder.

(c) *Solicitation and attempt.* No person may solicit or attempt a violation of ECRA, the EAR, or any order, license, or authorization issued thereunder.

(d) *Conspiracy.* No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of ECRA, the EAR, or any order, license, or authorization issued thereunder.

(e) *Acting with knowledge of a violation.* No person may order, buy, remove, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or in part, or conduct negotiations to facilitate such activities with respect to, any item that has been, is being, or is about to be exported, reexported, or transferred (in-country), or that is otherwise subject to the EAR, with knowledge that a violation of ECRA, the EAR, or any order, license, or authorization issued thereunder, has occurred, is about to occur, or is intended to occur in connection with the item.

(f) [Reserved]

(g) *Misrepresentation and concealment of facts.* (1) No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, either directly to BIS or an official of any other United States agency, or indirectly through any other person:

(i) In the course of an investigation or other action subject to the EAR; or

(ii) In connection with the preparation, submission, issuance, use, or maintenance of any ''export control document'' or any report filed or required to be filed pursuant to the EAR; or

(iii) For the purpose of or in connection with effecting an export, reexport, transfer (in-country) or other activity subject to the EAR.

(2) All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify BIS, and any other relevant agency, in writing, of any change of any material fact or intention from that previously represented, stated, or certified, immediately upon receipt of any information that would lead a reasonably prudent person to know that a change of material fact or intention has occurred or may occur in the future.

(h) *Evasion.* No person may engage in any transaction or take any other action with intent to evade the provisions of ECRA, the EAR, or any order, license or authorization issued thereunder.

(i) *Failure to comply with reporting, recordkeeping requirements.* No person may fail or refuse to comply with any reporting or recordkeeping requirement of ECRA, the EAR, or of any order, license, or authorization issued thereunder.

(j) *License alteration.* Except as specifically authorized in the EAR or in writing by BIS, no person may alter any license, authorization, export control document, or order issued under ECRA or the EAR.

(k) *Acting contrary to the terms of a denial order.* No person may take any action that is prohibited by a denial order or a temporary denial order issued

by BIS to prevent imminent violations of ECRA, the EAR, or any order, license or authorization issued thereunder.

■ 18. Section 764.3 is revised to read as follows:

§ 764.3 Sanctions.

(a) *Administrative.* Violations of ECRA, the EAR, or any order, license or authorization issued thereunder are subject to the administrative sanctions described in this section and to any other liability, sanction, or penalty available under law. The protective administrative measures that are described in § 764.6 of this part are distinct from administrative sanctions.

(1) *Civil monetary penalty.* (i) A civil monetary penalty not to exceed the amount set forth in ECRA may be imposed for each violation, and in the event that any provision of the EAR is continued or revised by IEEPA or any other authority, the maximum monetary civil penalty for each violation shall be that provided by such other authority.

(ii) The payment of any civil penalty may be made a condition, for a period not exceeding two years after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed.

(iii) The payment of any civil penalty may be deferred or suspended in whole or in part during any probation period that may be imposed. Such deferral or suspension shall not bar the collection of the penalty if the conditions of the deferral, suspension, or probation are not fulfilled.

(2) *Denial of export privileges.* An order may be issued that restricts the ability of the named persons to engage in exports, reexports, and transfers (in-country) involving items subject to the EAR, or that restricts access by named persons to items subject to the EAR. An order denying export privileges may be imposed either as a sanction for a violation of ECRA, the EAR, or any other statute set forth at 50 U.S.C. 4819(e)(1)(B); or as a protective administrative measure described in § 764.6(c) or (d) of this part. An order denying export privileges may suspend or revoke any or all outstanding licenses issued under the EAR to a person named in the denial order or in which such person has an interest; may deny or restrict exports, reexports, and transfers (in-country) by or to such person of any item subject to the EAR; and may restrict dealings in which that person may benefit from any export, reexport, or transfer (in-country) of such items. The standard terms of a denial order are set forth in supplement no. 1 to this part. A non-standard denial order, narrower in scope, may be issued. Authorization to engage in actions otherwise prohibited by a denial order may be given by the Office of Exporter Services, in consultation with the Office of Export Enforcement, upon a written request by a person named in the denial order or by a person seeking permission to deal with a named person. Submit such requests to: Bureau of Industry and Security, Office of Exporter Services, Room 2099b, U.S. Department of Commerce, 14th Street and Pennsylvania Ave. NW, Washington, DC 20230.

(3) *Exclusion from practice.* Any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity for any license application or other matter before BIS may be excluded by order from any or all such activities before BIS.

(b) *Criminal.* Whoever willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids and abets in the commission of, an unlawful act described in 50 U.S.C. 4819(a) shall be fined not more than $1,000,000; and in the case of the individual, shall be imprisoned for not more than 20 years, or both.

(c) *Other sanctions.* Conduct that violates ECRA, the EAR, or any order, license, or authorization issued thereunder, and other conduct specified in sections 11A, B, and C of the EAA may be subject to sanctions or other measures in addition to criminal and administrative sanctions under ECRA or the EAR. These include, but are not limited to, the following:

(1) *Statutory sanctions.* Statutorily-mandated sanctions may be imposed on account of specified conduct related to weapons proliferation. Such statutory sanctions are not civil or criminal penalties, but restrict imports and procurement (See section 11A of the EAA, Multilateral Export Control Violations, and section 11C of the EAA, Chemical and Biological Weapons Proliferation), or restrict export licenses (See section 11B of the EAA, Missile Proliferation Violations, and the Iran-Iraq Arms Non-Proliferation Act of 1992).

(2) *Other sanctions and measures*—(i) *Seizure and forfeiture.* Any property seized pursuant to export laws and regulations administered or enforced by the Secretary is subject to forfeiture. (50 U.S.C. 4819(d) and 4820(j); 22 U.S.C. 401; and 13 U.S.C. 305).

(ii) *Actions by other agencies.* (A) The Department of State may not issue licenses or approvals for the export or reexport of defense articles and defense services controlled under the Arms Export Control Act to persons convicted of criminal offenses specified at 22 U.S.C. 2778(g)(1)(A), or to persons denied export privileges by BIS or another agency; and may deny such licenses or approvals where the applicant is indicted for, or any party to the export is convicted of, those specified criminal offenses. (22 CFR 126.7(a) and 127.11(a)).

(B) The Department of Defense, among other agencies, may suspend the right of any person to contract with the United States Government based on export control violations. (Federal Acquisition Regulations at 48 CFR 9.407–2).

■ 19. Supplement no. 1 to part 764 is amended by revising paragraph (b) to read as follows:

Supplement No. 1 to Part 764—Standard Terms of Orders Denying Export Privileges

* * * * *

(b) *Standard denial order terms.* The following are the standard terms for imposing periods of export denial. Some orders also contain other terms, such as those that impose civil penalties, or that suspend all or part of the penalties or period of denial.

''It is therefore ordered:

First, that [the denied person(s)] may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Export Administration Regulations (EAR), or in any other activity subject to the EAR, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the denied person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the EAR that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a denied person, or service any item, of whatever origin, that is owned, possessed or controlled by a denied person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in § 766.23 of the EAR, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this order.

This order, which constitutes the final agency action in this matter, is effective [DATE OF ISSUANCE].''

PART 766—ADMINISTRATIVE ENFORCEMENT PROCEEDINGS

■ 20. The authority citation for part 766 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 21. Section 766.25 is amended by revising paragraphs (a), (b), (c), and (h), to read as follows:

§ 766.25 Administrative action denying export privileges.

(a) *General.* The Director of the Office of Export Enforcement (OEE), in consultation with the Director of the Office of Exporter Services, may deny the export privileges of any person who has been convicted of a violation of any of the statutes set forth at 50 U.S.C. 4819(e)(1)(B), including any regulation, license, or order issued pursuant to such statutes.

(b) *Procedure.* Upon notification that a person has been convicted of a violation of one or more of the provisions specified in paragraph (a) of this section, the Director of OEE, in consultation with the Director of the Office of Exporter Services, will determine whether to deny such person export privileges, including but not limited to applying for, obtaining, or using any license, License Exception, or export control document; or participating in or benefitting in any way from any export or export-related transaction subject to the EAR. Before taking action to deny a person export privileges under this section, the Director of OEE will provide the person written notice of the proposed action and an opportunity to comment through a written submission, unless exceptional circumstances exist. In reviewing the response, the Director of OEE will consider any relevant or mitigating evidence why these privileges should not be denied. Upon final determination, the Director of OEE will notify by letter each person denied export privileges under this section.

(c) *Criteria.* In determining whether and for how long to deny U.S. export privileges to a person previously convicted of one or more of the statutes set forth in paragraph (a) of this section, the Director of OEE may take into consideration any relevant information, including, but not limited to, the seriousness of the offense involved in the criminal prosecution, the nature and duration of the criminal sanctions imposed, and whether the person has undertaken any corrective measures.

* * * * *

(h) *Applicability to related person.* The Director of OEE, in consultation with the Director of the Office of Exporter Services, may take action in accordance with § 766.23 of this part to make applicable to related persons an order that is being sought or that has been issued under this section.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2020–25453 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–33–P

PEACE CORPS

22 CFR Part 313

RIN 0420–AA33

Peace Corps Guidance Documents

AGENCY: The Peace Corps.

ACTION: Final rule.

SUMMARY: This final rule sets forth internal Agency policies, processes and procedures governing development, review and clearance of guidance documents.

DATES: This rule is effective November 18, 2020.

FOR FURTHER INFORMATION CONTACT: David van Hoogstraten, (202) 692–2150, *dvanhoogstraten@peacecorps.gov.*

SUPPLEMENTARY INFORMATION:

Guidance Document Procedures

This final rule responds to Executive Order 13891 titled: ''Promoting the Rule of Law through Improved Agency Guidance Documents,'' (October 9, 2019) in which Federal agencies are required to set forth policies, processes and procedures for issuing guidance documents.

These policies, processes and procedures apply to all guidance documents which are a statement of agency policy or interpretation concerning a statute, regulation, or technical matter within the jurisdiction of the Agency intended to have general applicability and future effect on the behavior of the public, but not intended to have the force or effect of law and not otherwise required by statute to satisfy the rulemaking procedures of the Administrative Procedure Act.

This final rule sets forth Agency policies, processes and procedures regarding the development, review and clearance of guidance documents. Whenever a guidance document is determined to be ''significant,'' this will include legal review, review by the Agency's Senior Policy Committee and, following review and approval by the Office of Management and Budget, Office of Information and Regulatory Affairs (OMB/OIRA), review and approval by the Director of the Peace Corps. Prior to issuance by the Agency, all guidance documents must be written in plain English and not impose substantive legal requirements above and beyond statute or regulation. If a guidance document purports to describe, approve, or recommend specific conduct that goes beyond what is required by existing law, it must include a clear and prominent statement that the contents of the guidance

document do not have the force and effect of law and are not meant to bind the public. The procedures for the development and review of guidance documents can be found at 22 CFR 313.1 and 313.4.

This final rule also incorporates other policies and procedures, such as when guidance documents are subject to notice and an opportunity for public comment and how they will be made available to the public after issuance. See 22 CFR 313.3. These procedures are intended to ensure that the public has access to guidance documents issued by the Agency and a fair and sufficient opportunity to comment on them when appropriate and practicable.

Administrative Procedure

Under the Administrative Procedure Act, an agency may waive the normal notice and comment procedures if the action is a rule of agency organization, procedure, or practice. See 5 U.S.C. 553(b)(3)(A). Since this final rule incorporates into the Code of Federal Regulations existing internal procedures applicable to the Agency's administrative procedures, notice and comment are not necessary.

Rulemaking Analyses and Notices

A. Executive Order 12866 and Agency Regulatory Policies and Procedures

This rulemaking is not a significant regulatory action under Executive Order 12866. The Agency does not anticipate that this rulemaking will have an economic impact on regulated entities. This is a rule of Agency policy, procedure and practice. The final rule describes the manner in which the Agency handles internally the promulgation and processing of guidance documents.

B. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs)

This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

C. Regulatory Flexibility Act

Since notice and comment rulemaking is not necessary for this rule, the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) do not apply.

D. 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 Executive order, and the Agency 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.

E. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' 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 do not apply.

F. Paperwork Reduction Act

The Agency has determined there are no new information collection requirements associated with this final rule.

G. National Environmental Policy Act

The Agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), has determined that the purpose of this rulemaking is to update the Agency's administrative procedures for guidance documents and does not anticipate the action will have any environmental impacts.

List of Subjects in 22 CFR Part 313

Administrative practice and procedure.

■ For the reasons set out in the preamble, the Peace Corps adds 22 CFR part 313 to read as follows:

PART 313—GUIDANCE PROCEDURES

Sec.

313.1 General; definition of ''guidance documents'' covered by this part.
313.2 Guidance documents; required elements.
313.3 Public access to guidance documents.
313.4 Definition of ''significant guidance document.''
313.5 Procedures for guidance documents identified as ''significant.''
313.6 Notice-and-comment procedures.
313.7 Petition procedures for withdrawal or modification of a guidance document.
313.8 No judicial review or enforceable rights.

Authority: 22 U.S.C. 2501 *et seq.*

§ 313.1 General; definition of ''guidance documents'' covered by this part.

(a) This part governs Peace Corps (Agency) employees and contractors involved with all phases of issuing Agency guidance documents.

(b) For purposes of this part, the term ''guidance document'' means a statement of Agency policy or interpretation concerning a statute, regulation, or technical matter within the jurisdiction of the Agency intended to have general applicability and future effect on the behavior of the public, but which is not intended to have the force or effect of law 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 limited to formal written documents and may include, without limitation, letters, memoranda, circulars, bulletins, advisories, as well as video, audio, and web-based formats. *See* OMB Bulletin 07–02, ''Agency Good Guidance Practices,'' (January 25, 2007) (''OMB Good Guidance Bulletin'').

(c) The following shall not be considered ''guidance documents'' for purposes of this part:

(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 Agency employees, contractors, volunteers, trainees, or invitees or to other Federal agencies that are not intended to have substantial future effect on the behavior of regulated parties.

(d) The Peace Corps will not cite, use, or rely upon a guidance document that is rescinded, except for the purpose of establishing historical fact. Guidance documents not on an Agency website, as set forth in this part, are considered to be rescinded.

§ 313.2 Guidance documents; required elements.

Each guidance document proposed to be issued by the Agency shall:

(a) Comply with all relevant statutes and regulation;

(b) Identify or include for each guidance document:

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

(2) A unique identifier;

(3) The issuance date, posting date, and the issuing office within the Agency;

(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 summary of the subject matter covered in the guidance document at the top of the document.

(c) Avoid use of mandatory language, such as ''shall,'' ''must,'' ''required,'' or ''requirement,'' unless the language is describing an established statutory or regulatory requirement or is addressed to Agency's staff and will not foreclose the Agency's consideration of positions advanced by affected private parties;

(d) Be written in plain, understandable English; and

(e) Clearly and prominently state that the contents of the document do not have the force and effect of law and are not meant to bind the public, and the document is intended only to provide clarity to the public regarding existing requirements under the law or Agency policies.

§ 313.3 Public access to guidance documents.

The Agency, whenever it issues a guidance document as defined in this part, shall:

(a) Ensure it is identified by the document's title and date of issuance or revision and is placed on its website within a single, searchable, indexed database, and available to the public;

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

(c) Maintain and advertise on an Agency website a means for the public to comment electronically on guidance documents that are subject to the notice-and-comment procedures and to submit requests electronically for issuance, reconsideration, modification, or rescission of guidance documents in accordance with § 313.6; and

(d) Designate the Office of the General Counsel to receive and address any complaints from the public that the Agency is not following the requirements of E.O 13891, entitled ''Promoting the Rule of Law through Improved Agency Guidance Documents'' (October 9, 2019), or is improperly treating a guidance document as a binding requirement.

§ 313.4 Definition of ''significant guidance document.''

(a) A ''significant guidance document'' is a guidance document that will be disseminated to 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;

(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 § 313.1(c) or any other category of guidance documents exempted by the Agency in consultation with the Office of Management and Budget, Office of Information and Regulatory Affairs (OMB/OIRA).

(c) Significant guidance documents must be reviewed by OMB/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.

§ 313.5 Procedures for guidance documents identified as ''significant.''

(a) Whenever a guidance document is proposed to be issued by the Agency, a copy of the proposed guidance document will be reviewed by the Office of the General Counsel and provided to OMB/OIRA for a ''significance'' determination pursuant to Executive Order 12866.

(b) Following review and an affirmative ''significance'' determination by OMB/OIRA pursuant to Executive Order 12866, the guidance document will be reviewed by the Senior Policy Committee which may recommend that it be approved by the Director for issuance as a ''significant'' guidance document and the Agency may issue the guidance following approval by the Director.

(c) If the guidance document is determined by OMB/OIRA not to be ''significant'' within the meaning of § 313.4, the Agency or office within the Agency may proceed to issue the guidance.

§ 313.6 Notice-and-comment procedures.

(a) Except as provided in paragraph (b) of this section, any proposed Peace Corps guidance document determined to be ''significant'' within the meaning of § 313.4 shall be subject to the following notice-and-comment procedures. The Agency shall publish a notification in the **Federal Register** announcing that a draft of the proposed guidance document is publicly available, shall post the draft guidance document on its website, shall invite public comment on the draft document for a minimum of 30 days, and shall prepare and post a public response to major concerns raised in the comments, as appropriate, on its website, either before or when the guidance document is finalized and issued.

(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 the Agency finds, in consultation with OMB/OIRA, that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest.

§ 313.7 Petition procedures for withdrawal or modification of a guidance document.

Any member of the public may submit a petition to the Peace Corps requesting the Agency to consider withdrawing or modifying any guidance document. Such requests shall be sent by email to *policy@peacecorps.gov* or mailed to the Peace Corps, Office of the General Counsel, 1275 First St. NW, Washington, DC 20526. The Peace Corps will respond to a petition within 90 days of receipt by the Agency.

§ 313.8 No judicial review or enforceable rights.

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

Dated: November 5, 2020.

Timothy Noelker,

General Counsel.

[FR Doc. 2020–24915 Filed 11–17–20; 8:45 am]

BILLING CODE 6051–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1912

[Docket No. OSHA–2020–0010]

RIN 1218–AD33

Advisory Committee Regulation

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: The Maritime Advisory Committee for Occupational Safety and Health was formed in 1995 as a discretionary committee under Section 7(b) of the Occupational Safety and Health Act of 1970 (OSH Act) to advise, consult with, and make recommendations on matters relating to the maritime industry. On December 20, 2019, the President signed the National Defense Authorization Act for Fiscal Year 2020, which establishes a Maritime Advisory Committee on Occupational Safety and Health (MACOSH) as a statutorily-mandated entity of indefinite duration. In this final rule, OSHA amends the regulation on advisory committee policies and procedures to implement this change in the authority for MACOSH.

DATES: This final rule becomes effective on December 18, 2020.

FOR FURTHER INFORMATION CONTACT:

Press inquiries: Frank Meilinger, OSHA Office of Communications, Occupational Safety and Health Administration, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General information and technical inquiries: Maureen Ruskin, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, telephone (202) 693–1950; email: *ruskin.maureen@dol.gov.*

Copies of this ***Federal Register*** *document:* Electronic copies are available at *http://www.regulations.gov,* the Federal eRulemaking Portal. This **Federal Register** document, as well as news releases and other relevant information, also are available on OSHA's web page at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

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II. Discussion of Changes
III. Legal Considerations
IV. Final Economic Analysis and Regulatory Flexibility Act Certification
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I. Background

The maritime industry is a high-risk industry where activities vary from manufacturing-type work in shipyards to transportation-type work in longshoring, as well as commercial fishing operations. Historically, the maritime industry has experienced a high rate of work-related fatalities, injuries, and illnesses. MACOSH was initially formed in 1995 (60 FR 8425) as a discretionary committee authorized by Section 7(b) of the OSH Act to advise, consult with, and make recommendations to the Secretary of Labor (Secretary) on matters relating to the maritime industry. It was preceded by the Shipyard Employment Standards Advisory Committee, which advised OSHA on shipyard issues from 1988 to 1995. The committee name was changed to reflect the broadened scope of advice that OSHA sought from the committee, which had been expanded to include all types of maritime employment.

MACOSH's advisory activities support OSHA's strategic goal of promoting safe and healthful workplaces by providing collective industry knowledge and expertise, not otherwise readily available to the Secretary, to assist in addressing the unique hazards found within the maritime sector. The committee's work has led to the development of guidance and standards to promote the reduction of injuries, illnesses, and fatalities in the maritime industry.

On December 20, 2019, the President signed the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92) (NDAA), which establishes an advisory committee for the maritime industry as an entity of indefinite duration. Specifically, section 3510 of the NDAA amended section 7 of the OSH Act (29 U.S.C. 656) by adding a paragraph (d) to establish a Maritime Occupational Safety and Health Advisory Committee that is a continuing body and provides advice to the Secretary in formulating maritime industry standards and regarding matters pertaining to the administration of the OSH Act related to the maritime industry. Paragraph (d) further provides that the composition of such advisory committee must be consistent with the advisory committees established under paragraph (b) and that a member of the advisory committee who is otherwise qualified may continue to serve until a successor is appointed. It also allows the Secretary to promulgate or amend regulations as necessary to implement paragraph (d).

In order to implement the new Section 7(d) of the OSH Act, this final rule amends the text of 29 CFR part 1912 to include an advisory committee for the maritime industry of indefinite duration. The name of this committee will be Maritime Advisory Committee on Occupational Safety and Health (MACOSH). This amendment does not change the composition of the committee, which must remain consistent with other advisory committees established under section 7(b). However, it is necessary to revise 29 CFR part 1912 to describe the organization and operation of MACOSH.

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

II. Discussion of Changes

OSHA's regulations, 29 CFR part 1912, Advisory Committees on Standards, set forth the policies and procedures governing the composition and function of OSHA advisory committees. Pursuant to the NDAA's amendment of the OSH Act, MACOSH is now designated as a statutorily mandated advisory committee. To implement this change, this final rule

amends the purpose and scope section of part 1912 by adding MACOSH to § 1912.1(a). Section 1912.1(a) will continue to state that part 1912 covers the Advisory Committee on Construction Safety and Health, as well as any advisory committees that may be appointed in the future under section 7(b) of the OSH Act.

This final rule also adds a new § 1912.13 to set forth the requirements pertaining to the composition and function of MACOSH. Paragraph (a) of this section references section 3510 of the NDAA which establishes MACOSH. In addition, paragraph (a) specifies that MACOSH shall provide advice to the Secretary in formulating maritime industry standards and regarding matters pertaining to the administration of this Act related to the maritime industry. The Secretary may seek the advice of this committee on activities in the maritime industry related to the priorities set by the agency, including worker training, education, and assistance; setting and enforcing standards; and assurance of safe and healthful working conditions for America's working men and women in the maritime industry. While MACOSH's membership must be consistent with that of advisory committees appointed under section 7(b) of the OSH Act, paragraph (a) of § 1912.13 states that no other committee will be established to perform the same function, unless the issue or issues involved extend beyond maritime activity.

This final rule adds § 1912.13(b) to detail the organization of MACOSH. Paragraph (b) states that MACOSH is a continuing advisory body, with the makeup consistent with section 7(b) of the OSH Act. The committee membership will be composed of 15 members appointed by the Secretary, one of whom must be appointed as Chair. The composition of MACOSH is as follows:

- One member who is a designee of the Secretary of Health and Human Services (paragraph (b)(1));
- Equal representation of employers and employees, consisting of at least one member who is qualified by experience and affiliation to present the viewpoint of the employers involved, and at least one member who is similarly qualified to present the viewpoint of the employees involved (paragraph (b)(2));
- At least one representative of state health and safety agencies (paragraph (b)(3)); and
- Other persons as the Secretary may appoint who are qualified by knowledge and experience to make a useful contribution to the work of the committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health, and one or more persons of nationally recognized standards-producing organizations. However, the number of such persons appointed may not exceed the number of persons appointed as representatives of federal and state agencies. (Paragraph (b)(4)).

This final rule adds § 1912.13(c), which requires that the Committee's membership term will be for a period of two years. However, the Secretary has the authority to remove appointees at his or her discretion at any time. If a member resigns or is removed before his or her term expires, the Secretary may appoint a replacement to fulfill the remaining unexpired term of the resigned member.

This final rule adds § 1912.13(d) to permit members to be reappointed to successive terms. OSHA believes that returning members will provide leadership by mentoring newly appointed members on the practices and operations of the committee. In addition, membership continuity allows projects to progress across MACOSH charters. Finally, returning members will be familiar with agency priorities and previous advice provided to the Secretary.

This final rule adds § 1912.13(e) to permit members to continue serving until a successor is appointed. This provision is consistent with § 1912.3(i) that applies to the Advisory Committee on Construction Safety and Health. A member's service beyond the two-year appointment term pending the appointment of a successor will be at the Secretary's discretion.

Finally, this final rule adds § 1912.13(f) to implement the amendment to the OSH Act, under which MACOSH was designated a statutory entity of indefinite duration. Paragraph (f) also specifies that the Maritime Advisory Committee charter must be renewed every two years, in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2).

III. Legal Considerations

MACOSH is established and operates in accordance with the provisions of FACA, as amended (5 U.S.C. App. 2), the implementing regulations (41 CFR parts 101–6 and 102–3), and chapter 1–900 of Department of Labor Manual Series 3 (Aug. 31, 2020).

The Department has determined that these amendments need not be published as a proposed rule for comment under 5 U.S.C. 553(b) because the amendments comprise a rule of agency organization, procedure, or practice under 5 U.S.C. 553(b)(3)(A). Further, the final rule merely implements a statutory procedural requirement and affects no private rights or obligations, so public comment is unnecessary under 5 U.S.C. 553(b)(3)(B). Because this final rule is not substantive, and because there is no reason to delay implementation as this rule does not directly affect any private parties or require their compliance or familiarization with this rule, the Department has determined that delaying the effective date of the rule is unnecessary and good cause exists under 5 U.S.C. 553(d) to make this rule effective immediately upon publication in the **Federal Register**.

IV. Final Economic Analysis and Regulatory Flexibility Act Certification

Executive Orders 12866 and 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1532(a)) require that OSHA estimate the benefits, costs, and net benefits of regulations, and analyze the impacts of certain rules that OSHA promulgates. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This final rule is not an ''economically significant regulatory action'' under Executive Order 12866, or a ''major rule'' under the Congressional Review Act (5 U.S.C. 801 *et seq.*), and the impacts do not trigger the analytical requirements of UMRA. Neither the benefits nor the costs of this final rule would exceed $100 million in any given year.

V. Office of Management and Budget Review Under the Paperwork Reduction Act of 1995

The amended regulation contain no additional information-collection or record-keeping requirements under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* and the implementing regulations at 5 CFR part 1320.

VI. Unfunded Mandates Reform Act

These rule amendments 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. Therefore, no actions are deemed necessary under the provisions

of the Unfunded Mandates Reform Act of 1995.

Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice pursuant to 29 U.S.C. 653, 655, and 656, Secretary's Order 8–2020 (85 FR 58393; Sept. 18, 2020), National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92), and FACA, as amended (5 U.S.C. App. 2), the implementing regulations (41 CFR part 102–3), Department of Labor Manual Series Chapter 1–900 (August 31, 2020), and 29 CFR part 1911.

Signed at Washington, DC, on October 19, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Regulations

For the reasons stated in the preamble, OSHA amends 29 CFR part 1912 as follows:

PART 1912—ADVISORY COMMITTEES ON STANDARDS

■ 1. The authority citation for part 1912 is revised to read as follows:

Authority: 29 U.S.C. 653, 655, 656, 657; 5 U.S.C. 553; 5 U.S.C. App. 2; 40 U.S.C. 333; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 3–2000 (65 FR 50017), or 8–2020 (85 FR 58393), as applicable.

■ 2. Section 1912.1 is amended by revising paragraph (a) to read as follows:

§ 1912.1 Purpose and scope.

(a) This part prescribes the policies and procedures governing the composition and functions of advisory committees which have been, or may be, appointed under section 7(b) of the Occupational Safety and Health Act of 1970 (the Act) to assist the Assistant Secretary in carrying out the standards-setting duties of the Secretary of Labor under section 6 of the Act. Such committees are specifically authorized by section 7(b). This part also prescribes the policies and procedures governing the composition and functions of the:

(1) Advisory Committee on Construction Safety and Health; and

(2) Maritime Advisory Committee on Occupational Safety and Health.

* * * * *

■ 3. Add § 1912.13 to read as follows:

§ 1912.13 Maritime Advisory Committee on Occupational Safety and Health.

(a) This section applies to the Maritime Advisory Committee on Occupational Safety and Health, which has been established under section 3510 of the National Defense Authorization Act (Pub. L. 116–92, December 20, 2019) to advise the Secretary of Labor in formulating maritime industry standards and regarding matters pertaining to the administration of this Act related to the maritime industry. The composition of the Maritime Advisory Committee on Occupational Safety and Health is consistent with that of advisory committees which may be appointed under section 7(b) of the Act. See paragraph (c) of this section. An additional advisory committee covering these duties will not normally be established under section 7(b) of the Act, unless the issue or issues involved extend beyond maritime activity. See § 1912.4 concerning the general policy against duplication of activity by advisory committees.

(b) The Maritime Advisory Committee on Occupational Safety and Health is a continuing advisory body. It is composed of 15 members appointed by the Secretary, one of whom is appointed as Chair. The composition of the Advisory Committee is as follows:

(1) One member who is a designee of the Secretary of Health and Human Services;

(2) At least one member who is qualified by experience and affiliation to present the viewpoint of the employers involved, and at least one member who is similarly qualified to present the viewpoint of the employees involved. There shall be an equal number of representatives of employers and employees involved; and

(3) At least one representative of state health and safety agencies.

(4) The Maritime Advisory Committee on Occupational Safety and Health may include such other persons as the Secretary may appoint who are qualified by knowledge and experience to make a useful contribution to the work of the committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health and one or more persons of nationally recognized standards-producing organizations, but the number of persons so appointed shall not exceed the number of persons appointed as representatives of Federal and state agencies.

(c) Each member of the Maritime Advisory Committee on Occupational Safety and Health shall serve for a period of two years. Appointment of a member to the Committee for a fixed time period shall not affect the authority of the Secretary to remove, in his or her discretion, any member at any time. If a member resigns or is removed before his or her term expires, the Secretary of Labor may appoint for the remainder of the unexpired term a new member who shall represent the same interest as his or her predecessor.

(d) Members may be appointed to successive terms.

(e) A member who is otherwise qualified may continue to serve until a successor is appointed.

(f) There shall be filed on behalf of the Maritime Advisory Committee on Occupational Safety and Health a charter in accordance with the Federal Advisory Committee Act upon the expiration of each successive two-year period.

[FR Doc. 2020–23620 Filed 11–17–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2020–0610]

RIN 1625–AA00

Safety Zone; J5D Optic Line Replacement, Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable U.S. waters in the Detroit River, Detroit, MI. This safety zone is necessary to protect vessels from potential hazards associated with the replacement of the J5D optic line. Entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Detroit.

DATES: This temporary final rule is effective from 8 a.m. on November 24, 2020, through 7 p.m. December 2, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2020–0610 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone 313–568–9564, email *Tracy.M.Girard@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority undersection 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details of this line replacement in time to publish an NPRM. As such, it is impracticable to publish an NPRM because doing so would prevent the Coast Guard from enforcing the temporary safety zone during the optic line replacement work, exposing the public to the dangers associated with this work. We are issuing this rule under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register** for the same reason noted above.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP Detroit has determined that potential hazards associated with J5D Optic Line Replacement will be a safety concern to anyone in the vicinity of the replacement location. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the line replacement is occurring.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from November 24, 2020 at 8 a.m. through 7 p.m. on December 2, 2020. Each safety zone will be enforced for a four hour period on November 24, 2020 and on December 1, 2020. In the case of inclement weather on those dates, this safety zone will be enforced for a four hour period the day after both stated dates. Each safety zone will encompass all U.S. navigable waters of the Detroit River within 300 yards up-bound and 300 yards down-bound from the shore at position 42°17.618′ N, 083°05.888′ W (NAD 83) extending seaward to the international boundary line. No vessel or person will be permitted to enter each safety zone without obtaining permission from the COTP Detroit or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the characteristics of each safety zone. Each safety zone created by this rule will impact a small designated area of the Detroit River and is designed to minimize the impact on its navigable waters. This rule is not anticipated to exceed four hours per enforced period. Vessel traffic will not be able to transit around the safety zone during the enforced period. Therefore, the Coast Guard will issue a Broadcast Notice to Mariners (BNM) via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to transit the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes,

or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting four hours on two separate dates that will prohibit entry into the designated area. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0610 to read as follows:

§ 165.T09 0610 Safety Zone; J5D Optic Line Replacement, Detroit River, Detroit, MI.

(a) *Location.* A safety zone is established to include all U.S. navigable waters of the Detroit River within 300 yards up-bound and 300 yards down-bound from the shore at position 42°17.618′ N, 083°05.888′ W (NAD 83) extending seaward to the international boundary line.

(b) *Enforcement period.* This section establishes a safety zone from 8.a.m. November 24, 2020 through 7 p.m. on December 2, 2020. Each safety zone will be enforced for a four hour period on November 24, 2020 and on December 1, 2020. In the case of inclement weather on those dates, each safety zone will be enforced for a four hour period the day after both stated dates.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port (COTP) Detroit or a designated on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP Detroit or a designated on-scene representative.

(3) The ''on-scene representative'' of the COTP Detroit is any Coast Guard commissioned, warrant or petty officer or a Federal, state, or local law enforcement officer designated by the COTP Detroit to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the COTP Detroit or an on-scene representative to obtain permission to do so. The COTP Detroit or an on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP Detroit or an on-scene representative.

Dated: November 5, 2020.

Brad W. Kelly,

Captain, U.S. Coast Guard, Captain of the Port, Detroit.

[FR Doc. 2020–24946 Filed 11–17–20; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket Nos. 20–35, 17–105; FCC 20–139; FRS 17157]

Requiring Records of Cable Operator Interests in Video Programming; Modernization of Media Regulation Initiative

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission eliminates the rules requiring that cable operators maintain records in their online public inspection files regarding the nature and extent of their attributable interests in video programming services, as well as information regarding cable operators' carriage of such vertically integrated video programming services on cable systems in which they have an attributable interest.

DATES: Effective November 18, 2020.

FOR FURTHER INFORMATION CONTACT: Chad Guo, *Chad.Guo@fcc.gov,* or 202–418–0652.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (*Order*), FCC 20–139, in MB Docket Nos. 20–35, 17–105, adopted on September 29, 2020, and released on September 30, 2020. The complete text of this document is available electronically via the search function on the FCC's Electronic Document Management System (EDOCS) web page at *https://apps.fcc.gov/edocs_public/* (*https://apps.fcc.gov/edocs_public/*). The complete document is also available for public inspection at *https://docs.fcc.gov/public/attachments/FCC-20-134A1.pdf.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* (mail to: *fcc504@fcc.gov*) or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

In this Report and Order (*Order*), we eliminate § 76.1710 of our rules, which requires cable operators to maintain records in their online public inspection files regarding the nature and extent of their attributable interests in video programming services. The current rule also requires that the online public inspection files maintained by cable operators contain information regarding

the operators' carriage of such vertically integrated video programming services on cable systems in which they have an attributable interest. We refer herein to both parts of this rule collectively as the ''cable operator interests in video programming recordkeeping'' requirement. Based upon comments received in response to the *Notice of Proposed Rulemaking* (*NPRM*) (85 FR 18527, April 2, 2020), we find that the recordkeeping obligations set forth in § 76.1710 are outdated and unnecessary. Therefore, we eliminate this regulation and revise our rules to omit existing cross-references. By adopting our proposal to repeal this rule, we remove a regulatory burden on cable operators that no longer serves the public interest. Additionally, through this *Order,* we continue our efforts to modernize the Commission's media regulations.

Background. Section 76.1710 contains recordkeeping obligations with respect to two categories of information. It requires cable operators to maintain in their public inspection files, for a period of three years, records regarding the nature and extent of their attributable interests in all video programming services (the attributable interests requirement) as well as information regarding their carriage of such vertically integrated video programming services on cable systems in which they also have an attributable interest (the carriage requirement). As described in the NPRM, these recordkeeping requirements were adopted in 1993 to aid in the enforcement of the Commission's channel occupancy limits, which were reversed and remanded to the Commission by the U.S. Court of Appeals for the D.C. Circuit in 2001. The Commission adopted the channel occupancy limits consistent with section 11 of the Cable Television Consumer Protection and Competition Act of 1992, which required the Commission to establish reasonable limits on the number of cable channels that can be occupied by a video programmer in which a cable operator has an attributable interest. The court found that the Commission failed to justify its channel occupancy limits as not burdening substantially more speech than necessary. While the Commission did seek comment on reinstituting the channel occupancy limits, it found the record inadequate to support adopting a specific vertical limit on the ownership of video programming sources by owners of cable systems. However, despite that court decision, the cable operator interests in video programming recordkeeping requirement has remained part of the public file requirements for cable operators. The Commission reorganized its public file rules in 1999 to reduce the regulatory burden faced by cable operators with regard to recordkeeping requirements. As part of the reorganization proceeding, the Commission sought comment on whether to remove or consolidate any public file requirements.

The Commission transitioned the public file requirements for cable operators to an online format in 2016, when the Commission expanded the list of entities required to post public inspection files to the Commission's online database. Since then, the cable operator interests in video programming recordkeeping requirement has been part of the online public inspection file to be maintained by cable system operators.

Comments in the Commission's Media Modernization proceeding identified cable operator interests in video programming as one of several categories of information that parties felt were superfluous and could be eliminated from the online public inspection file. In February 2020, the Commission adopted the *NPRM* to seek comment on whether to modify or eliminate § 76.1710 and references to the rule in other associated rule provisions. As the channel occupancy limits were reversed and remanded by the D.C. Circuit over 18 years ago, the *NPRM* sought comment on what purpose, if any, the rule serves today that would justify its retention. The *NPRM* noted that, in the over 26 years since the requirement was adopted, the Commission was aware of only a single instance in which the rule has been invoked.

As discussed below, all but one commenter to the *NPRM* agree that § 76.1710 should be eliminated in its entirety. Three parties filed comments in this proceeding in response to the *NPRM.* Verizon and the National Cable Telecommunications Association (NCTA) support eliminating § 76.1710 in its entirety. ACA Connects—America's Communications Association (ACA) advocates for retaining a portion of § 76.1710. The only point of contention in the record is whether the attributable interests requirement (*i.e.,* the requirement to disclose attributable interests in video programming) should be retained due to the potential usefulness of the information in the context of program access complaints. Notably, no commenter asserts that § 76.1710 remains useful for its original purpose, which was to aid in the enforcement of the channel occupancy limits.

Discussion. For the reasons discussed below, we repeal § 76.1710 and all cross-references to it. Consistent with our observations in the *NPRM,* the record indicates that the rule is of very limited utility and there is little justification for its retention after the D.C. Circuit reversed and remanded the channel occupancy limits. Accordingly, we eliminate both the portion of the rule requiring cable operators to maintain in their public inspection files, for a period of three years, records regarding the nature and extent of their attributable interests in all video programming services (the attributable interests requirement) as well as the portion of the rule requiring maintenance of records regarding their carriage of such vertically integrated video programming services on cable systems in which they also have an attributable interest (the carriage requirement). No commenter supports retention of the latter, *i.e.,* the carriage requirement; indeed, even the lone commenter that put forth an argument to retain the attributable interests requirement agrees that the carriage requirement portion of the rule should be eliminated because such information is widely available elsewhere. ACA cites to the Commission's findings in an earlier Media Modernization proceeding that found consumers were more likely to seek and access channel lineup information from cable company websites, on-screen electronic program guides, and paper guides. Therefore, we find that there is no dispute as to whether cable operators should be required to disclose the carriage information for vertically integrated programming in their online public inspection files. We agree with commenters that this requirement has become outdated and no longer serves the public interest, and accordingly, we hereby eliminate it.

The only contested issue in the record involves § 76.1710's attributable interests requirement, *i.e.,* the requirement that cable operators maintain records regarding the nature and extent of their attributable interests in all video programming services. While Verizon and NCTA support eliminating this attributable interest recordkeeping requirement completely, ACA advocates for retaining the attributable interest record in a less burdensome way. ACA asserts that the information is potentially useful in program access complaint proceedings. As the Commission's program access rules prohibit unfair practices by satellite cable programming vendors in

which a cable operator has an attributable interest, a prospective complainant against a satellite cable programming vendor must demonstrate that a cable operator has an attributable interest in such a vendor. Thus, ACA contends that the attributable interests requirement in § 76.1710 assists prospective program access complainants by providing ready access to information regarding cable operators' attributable interests, information that complainants would otherwise have to obtain on their own. ACA claims that requiring cable operators to continue disclosing this information in the public inspection file would be preferable to forcing program access complainants to obtain this information from other, potentially less reliable sources. NCTA disagrees, stating that ''entities seeking attributable interest information can retrieve it from a variety of readily available sources.'' NCTA also argues that it is unreasonable to require all cable operators to keep compiling this information and uploading it to the public file just because of ''the possibility that at some future point it may spare a potential program access complainant the burden of compiling ownership information on its own.''

We find that the public interest will be best served by eliminating § 76.1710 in its entirety, including the attributable interests portion of the recordkeeping requirement. We note that no party maintains that the information is useful or of interest to the general public. The record indicates that it is only potential program access complainants that might find such information useful. Furthermore, the usefulness of such information in the program access context appears to be theoretical at best, as there is no evidence in the record that this information has ever actually been relied upon in a program access complaint. Ultimately, we find that the narrow and specific circumstances under which the attributable interests information could benefit a small subset of industry, together with the availability of other sources for ascertaining such information, weighs against retaining the requirement that this information be included in the public inspection file.

We agree with NCTA that there are other publicly available sources from which information for program access issues could be obtained, including Securities and Exchange Commission (SEC) filings and industry-specific resources such as SNL Kagan. Although ACA may be correct that, in general, this information is only available for publicly held cable operators, and may not always be accurate if available for smaller or privately held cable operators, we disagree that this very narrow utility of the rule justifies its retention. This is particularly true as smaller cable operators are less likely to be subject to a program access complaint given that they are less likely to have attributable interests in programming in general or, more specifically, in the sort of programming that is highly rated and/or considered ''must-have'' and thus more likely to be the basis for a complaint. Commission reports also indicate that the most notable networks affiliated with cable operators tend to be affiliated with larger operators, which own several times more cable networks than smaller operators. We also agree with NCTA that this information is readily discoverable in the complaint context. Based on publicly available sources, potential program access complainants could plead that the programming at issue is vertically integrated with a cable operator, and the cable operator in its answer would have to concede that the assertion is true or provide evidence that it is untrue. Finally, as the Commission's program access rules and procedures were not adopted to work in conjunction with the attributable interests recordkeeping requirements, we find that the program access rules would still function as intended in the absence of attributable interests information being available in cable operators' online public inspection files.

We also agree with NCTA that the public interest would not be served by requiring *all* cable operators to keep such information in their public inspection files solely on the chance that *a* cable operator becomes the subject of a program access complaint. We note that in the past five years, the Commission has received only one program access complaint. Therefore, we believe that requiring a cable operator to keep these records on file even though the records are likely never to be used by a program access complainant (or anyone else), runs counter to our goal of eliminating unnecessary regulatory burdens. As noted above, the Commission has received just one program access complaint in the past five years. Although ACA questions whether the recordkeeping requirement imposes any meaningful burden on large cable system operators, it offers no evidence that undermines NCTA's position.

Lastly, we disagree with ACA's proposal to modify the rule. ACA proposes that the rule be modified to allow cable operators to post their attributable interests once and then only post updates if the interests change. ACA further suggests cable operators could post ''classes'' of ownership percentages so that they would not have to update their filings based on minor ownership changes. No other commenter supports this or any other modification of the rule. Indeed, we find that the proposed modification is arguably more burdensome than the current rule, as it would still require cable operators to determine, prepare, and post some amount of attributable interest information and would require updates that in some cases would go above and beyond what is required by the current regulation. For example, under ACA's proposal, a cable operator would have to file an update when its ownership in a programmer increased from 70% to 80% even though no such update is required under our current rules. Furthermore, given the very limited utility, if any, of keeping attributable interests information on file, we cannot find a justification in the record for retaining any part of the rule, even in a modified or reduced form.

For these reasons, we eliminate § 76.1710 in its entirety. We also eliminate from §§ 76.504 and 76.1700 of the Commission's rules the references to the recordkeeping requirement contained in § 76.1710. Note 2 to § 76.504 contains a cross reference to § 76.1710. Section 76.1700 lists operator interests in video programming as a component of the public inspection file and also cross-references § 76.1710.

Regulatory Flexibility Act. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, an Initial Regulatory Flexibility Certification was incorporated into the *NPRM.* Pursuant to the RFA, the Commission's Final Regulatory Flexibility Certification relating to this Report and Order is attached as Appendix B.

Paperwork Reduction Act. This Order does not contain proposed new or revised information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, this Order therefore does not contain any new or modified ''information burden for small business concerns with fewer than 25 employees'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4).

Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will

send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Final Regulatory Flexibility Act Analysis. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM* in MB Docket 20–35. The Commission sought public comments on proposals in the *NPRM,* including comment on the IRFA. The Commission received no comments on the IRFA. The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Proposed Rules. This *Order* stems from an *NPRM* released by the Commission in March 2020, seeking comment on whether to eliminate or modify § 76.1710 of the Commission's rules. The parties that filed comments in the proceeding agree that the recordkeeping requirement at issue is no longer necessary for its original purpose. One party commented that the attributable interest regulations should be retained due to the potential usefulness of that information in the context of program access complaints. The *Order* finds that the information on which program access complaints are based can be obtained from sources other than the public inspection files maintained by cable operators. The *Order* also finds that the usefulness of such information in program access contexts is largely theoretical because cable operators would have to maintain such information in their public inspection files simply on the chance that the operator might someday become the subject of a program access complaint. Therefore, the *Order* does not find any compelling reason to retain the rule.

By eliminating this rule, the *Order* reduces the burden of maintaining the public inspection file on cable operators. Specifically, the *Order* eliminates the requirement that cable operators maintain records in their online public inspection file regarding the nature and extent of their attributable interests in all video programming services as well as information regarding their carriage of such vertically integrated video programming services on cable systems in which they have an attributable interest for a period of at least three years. An attributable interest is an ownership interest in, or relationship to, an entity that gives the interest holder a certain degree of influence or control over the entity as defined in the Commission's rules. Vertically integrated video programming is video programming carried by a cable system and produced by an entity in which the cable system's operator has an attributable interest. The *Order* finds that eliminating this recordkeeping requirement will remove an outdated and unnecessary regulatory burden on cable operators.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA. No comments were filed in response to the IRFA.

Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act (SBA). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

Cable Companies and Systems (Rate Regulation Standard). The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that, of 4,200 cable operators nationwide, all but 9 are small under this size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 4,200 systems nationwide, 3,900 have fewer than 15,000 subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

Cable System Operators (Telecom Act Standard). The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' As of 2019, there were approximately 48,646,056 basic cable video subscribers in the United States. Accordingly, an operator serving fewer than 486,460 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but five cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. The *Order* eliminates a rule that requires cable operators to maintain records of their attributable interests in video programming in their online public inspection files. Accordingly, the *Order* does not impose any new reporting, recordkeeping, or other compliance requirements.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

The *Order* eliminates the obligation, imposed on cable operators, to maintain records of their attributable interests in

video programming in their online public inspection files. Eliminating this requirement is intended to modernize the Commission's regulations and reduce costs and recordkeeping burdens for affected entities, include small entities. Under the revised rules, affected entities no longer will need to expend time and resources maintaining and updating this portion of their online public inspection files.

Because no commenter provided information specifically quantifying the costs and administrative burdens of complying with the existing recordkeeping requirements, we cannot precisely estimate the impact on small entities of eliminating them. By eliminating the rule, the *Order* reduces the costs and burdens of compliance on all cable operators, including small entities.

Report to Congress. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.

Accordingly, *it is ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), 303(r), and 613 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), and 533, this Report and Order *is adopted. It is further ordered* that Part 76 of the Commission's rules *is amended* as set forth in Appendix A, and the rule changes to §§ 76.504, 76.1700, and 76.1710 adopted herein will become effective as of the date of publication of a summary in the **Federal Register**. *It is further ordered* that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 20–35 *shall be terminated* and its docket *closed. It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration. *It is further ordered* that the Commission *shall send* a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 76

Cable television, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

§ 76.504 [Amended]

■ 2. Amend § 76.504 by removing Note 2.

§ 76.1700 [Amended]

■ 3. Amend § 76.1700 by removing and reserving paragraph (a)(7).

§ 76.1710 [Removed]

■ 4. Remove § 76.1710.

[FR Doc. 2020–25007 Filed 11–17–20; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register

Vol. 85, No. 223

Wednesday, November 18, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0981; Project Identifier AD–2020–00919–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 777 airplanes. This proposed AD was prompted by reports that, during investigation of a fuel leak, fatigue cracking was found on the forward inboard side of the fuel tank access door cutouts on the left and right lower wing skin. The cause of the cracking is attributed to corrosion damage. This proposed AD would require repetitive inspections for any existing repair of the wing lower skin fuel tank and dry bay access door cutouts on the left and right lower wing skin, and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 4, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0981.

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–2020–0981; 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 NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Eric Lin, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3523; email: *eric.lin@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views about this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one copy of the comments. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0981; Project Identifier AD–2020–00919–T'' at the beginning of your comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received by the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this NPRM because of those comments.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person identified in the **FOR FURTHER INFORMATION CONTACT** section. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA has received reports that, during investigation of a fuel leak, 0.55-inch to 2.10-inch fatigue cracks were found at fuel tank access door cutouts 633AB and 533BB on the left and right lower wing skin. The cracks were located on the forward inboard side of the fuel tank access door cutout. Boeing analysis determined the root cause of the cracking is corrosion damage with high shear stress concentration around the edge of the lower wing skin fuel tank and dry bay access door cutout being higher than anticipated. This condition, if not addressed, could result in the inability of a principal structural

element to sustain limit load, and consequent reduced structural integrity of the airplane.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 777–57A0118 RB, dated June 23, 2020. The service information describes procedures for doing repetitive general visual inspection for any existing repair of the fuel tank access door cutouts on the left and right lower wing skin, and applicable on-condition actions. On-condition actions include doing detailed and high frequency eddy current (HFEC) inspections for any corrosion, fretting or cracking, doing a blend out of corrosion or fretting that meets certain criteria, and repair.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified in Boeing Alert Requirements Bulletin 777–57A0118 RB, dated June 23, 2020, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0981.

Explanation of Requirements Bulletin

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are ''required for compliance'' (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the ''Accomplishment Instructions.'' The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.,* only the RC actions).

Costs of Compliance

The FAA estimates that this proposed AD affects 221 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
General Visual Inspection.	Up to 34 work-hours × $85 per hour = Up to $2,890 per inspection cycle.	$0	Up to $2,890 per inspection cycle.	Up to $638,690 per inspection cycle.

The FAA estimates the following costs to do any necessary on-condition actions that would be required. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Blend out of corrosion or fretting	2 work-hours × $85 per hour = $170 per blend out.	$0	$170 per blend out	$170 per blend out.
Repair of crack less than or equal to 0.2 inch with no blend repair or keyway trim modification.	2 work-hours × $85 per hour = $170 per crack.	0	$170 per crack	$170 per crack.
Detailed and HFEC inspections	2 work-hours × $85 per hour = $170 per access door cutout.	0	$170 per access door cutout.	$170 per access door cutout.

* The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this proposed AD that require obtaining an alternative method of compliance (AMOC).

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

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 this proposed regulation:

(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.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

The Boeing Company: Docket No. FAA–2020–0981; Project Identifier AD–2020–00919–T.

(a) Comments Due Date

The FAA must receive comments by January 4, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 777–57A0118 RB, dated June 23, 2020.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by reports that, during investigation of a fuel leak, fatigue cracking was found on the forward inboard side of the fuel tank access door cutouts on the left and right lower wing skin. The cause of the cracking is attributed to corrosion damage. The FAA is issuing this AD to address such cracking, which could result in the inability of a principal structural element to sustain limit load, and consequent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 777–57A0118 RB, dated June 23, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 777–57A0118 RB, dated June 23, 2020.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 777–57A0118, dated June 23, 2020, which is referred to in Boeing Alert Requirements Bulletin 777–57A0118 RB, dated June 23, 2020.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Requirements Bulletin 777–57A0118 RB, dated June 23, 2020, uses the phrase ''the original issue date of Requirements Bulletin 777–57A0118 RB,'' this AD requires using ''the effective date of this AD'', except where Boeing Alert Requirements Bulletin 777–57A0118 RB, dated June 23, 2020, uses the phrase ''the original issue date of Requirements Bulletin 777–57A0118 RB'' in a note or flag note.

(2) Where Boeing Alert Requirements Bulletin 777–57A0118 RB, dated June 23, 2020, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Related Information

(1) For more information about this AD, contact Eric Lin, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3523; email: *eric.lin@faa.gov*.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on October 29, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–25283 Filed 11–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1026; Project Identifier MCAI–2020–00745–R]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–13–02, which applies to certain Leonardo S.p.A. Model A119 and AW119 MKII helicopters. AD 2020–13–02 requires inspecting for movement and the tightening torque of the tail rotor (T/R) plug, the installation of the outboard and inboard faces of the T/R duplex bearing, and the condition of the T/R duplex bearing, T/R plug threads, and nut threads. Depending on the inspection results, AD 2020–13–02 requires corrective actions and reporting information. Since the FAA issued AD 2020–13–02, Leonardo S.p.a. issued updated service information. This proposed AD would retain the requirements of AD 2020–13–02 except the reporting requirement, update the service information, and require repeating the inspection. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this AD by January 4, 2021.

ADDRESSES: You may send comments by any of the following methods:

• *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the

online instructions for sending your comments electronically.

- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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–2020–1026; 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 proposed AD, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *david.hatfield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2020–1026; Product Identifier MCAI–2020–00745–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposal.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *david.hatfield@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2020–13–02, Amendment 39–21147 (85 FR 37551, June 23, 2020) (AD 2020–13–02), for Leonardo S.p.A. (Leonardo) Model A119 and AW119 MKII helicopters with a T/R duplex bearing part number (P/N) 129–0160–11–103 installed. AD 2020–13–02 was prompted by EASA Emergency AD No. 2019–0194–E, dated August 9, 2019 (EASA AD 2019–0194–E), which stated that preliminary investigation of a Model AW119 MKII helicopter accident identified a disassembled connection between the yaw control input lever and the rotating input shaft, partial presence of spalling on the T/R duplex bearing inner races, and missing plug and related lockwire. EASA advised that this condition, if not corrected, could lead to functional failure of the T/R pitch change mechanism, resulting in loss of control of the helicopter. EASA considered EASA AD 2019–0194–E an interim action and stated further AD action may follow.

AD 2020–13–02 requires inspecting the T/R plug for movement and its tightening torque measurement, inspecting the installation of the outboard and inboard faces of the T/R duplex bearing, and inspecting the condition of the T/R duplex bearing, T/R plug threads, and nut threads. Depending on inspection results, AD 2020–13–02 requires removing the affected parts from service and reporting the inspection findings to Leonardo. For some of these actions, AD 2020–13–02 requires following the procedures in Leonardo Helicopters Emergency Alert Service Bulletin (EASB) No. 119–100, dated August 7, 2019 (EASB 119–100). AD 2020–13–02 also prohibits installing a T/R duplex bearing unless it had been inspected. The FAA issued AD 2020–13–02 to prevent structural failure of the T/R assembly, loss of T/R pitch change control, and subsequent loss of control of the helicopter.

Actions Since AD 2020–13–02 Was Issued

Since the FAA issued AD 2020–13–02, EASA has issued EASA AD No. 2020–0128, dated June 4, 2020 (EASA AD 2020–0128), to supersede EASA AD 2019–0194–E. EASA advises that Leonardo has determined that additional serial-numbered helicopters are affected by the unsafe condition. EASA also advises that Leonardo canceled EASB 119–100 and instead included the repetitive inspections in the maintenance manual (MM). Accordingly, EASA AD 2020–0128 partially retains the requirements of EASA AD 2019–0194–E and expands the applicability.

In addition, Leonardo replaced EASB 119–100 with EASB No. 119–105, currently at Revision A, dated June 3, 2020 (EASB 119–105 Rev A). EASB 119–105 Rev A expands the effectivity by identifying additional serial-numbered helicopters and omits the long-term and on-condition repetitive inspections that have been incorporated into the MM.

AD 2020–13–02 did not require repeating the inspection of the T/R duplex bearing installation every 200 hours time-in-service (TIS), as there was sufficient time to allow for notice and comment prior to this long-term action going into effect. The FAA has determined that repeating the inspection is needed to address this unsafe condition. Although Leonardo has added this action to the MM, the FAA must mandate it through an AD in order to require it for all operators.

Accordingly, the FAA has included this long-term requirement in this proposed AD.

Comments to AD 2020–13–02

After AD 2020–13–02 was published, the FAA received comments from three individual commenters. The following presents the comments received and the FAA's response to each comment.

Requests

Request: Two commenters requested the FAA update the references in AD 2020–13–02, as EASB 119–100 has been canceled and EASA AD 2019–0194–E has been superseded by EASA AD 2020–0128. The commenters proposed referencing the new EASB 119–105.

FAA's Response: The FAA agrees. This NPRM reflects the changes proposed by the commenters.

Request: One commenter requested the AD allow credit for previous compliance with either EASB 119–100 or EASB 119–105.

FAA's Response: The FAA agrees. In this NPRM, the FAA has proposed to require using EASB 119–105 instead of EASB 119–100. Paragraph (e) of the proposed AD would require compliance unless already done. Thus, the proposed AD allows operators to take credit for actions using EASB 119–105 if done before the effective date of the AD. This NPRM also proposes to allow credit for previous actions accomplished using the procedures specified in EASB 119–100.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after determining that the unsafe condition described previously is likely to exist or develop on other helicopters of these same type designs.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASB 119–105 Rev A, which specifies a one-time inspection of the tightening torque of T/R plug P/N 129–0160–45–103, and a one-time inspection for correct installation of the inboard and outboard faces of T/R duplex bearing P/N 129–0160–11–103, for damage to the threads of the T/R plug and nut P/N MS17825–7, and of the T/R duplex bearing for roughness, ease of rotation, and presence of brinelling, spalling, chipping, and flaking or traces of overheating of bearing balls, and general damage to races.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA reviewed EASB 119–100, which specifies the same procedures as EASB 119–105 Rev A, except EASB 119–100 also specifies repeating the inspection for correct installation of the inboard and outboard faces of T/R duplex bearing P/N 129–0160–11–103, for damage to the threads of the T/R plug and nut P/N MS17825–7, and of the T/R duplex bearing for roughness, ease of rotation, and presence of brinelling, spalling, chipping, and flaking or traces of overheating of bearing balls, and general damage to races in conjunction every 200 hours TIS or at any removal, installation, or disassembly of the T/R duplex bearing.

The FAA also reviewed Leonardo Helicopters EASB No. 119–105, dated May 18, 2020, which contains the same procedures as EASB 119–105 Rev A, except EASB 119–105 Rev A applies to additional serial-numbered helicopters.

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the inspection requirements and the installation prohibition of AD 2020–13–02. This proposed AD would also require repeating the inspection for presence of the P/N and S/N markings of the outboard and inboard faces of T/R duplex bearing every 200 hours TIS. This proposed AD would not require reporting any inspection results.

Differences Between This Proposed AD and the EASA AD

The EASA AD is applicable to certain serial-numbered Model A119 and AW119MKII helicopters, whereas this proposed AD would apply to Model A119 and AW119 MKII helicopters with a T/R duplex bearing P/N 129–0160–11–103 installed instead. The EASA AD requires inspecting the tightening torque of the T/R plug in the range of 30.5–33.9 Nm, whereas this proposed AD would require inspecting the tightening torque of the T/R plug to a minimum of 30.5 Nm instead. This proposed AD would require repeating the inspections for the presence of the P/N and S/N markings, for rough rotation, brinelling, spalling, chipping, flaking, evidence of overheated bearing balls, and damage to the races, and for damaged threads of the T/R plug and nut, at intervals not to exceed 200 hours TIS, whereas the EASA AD does not require repeating these inspections. The EASA AD requires inspecting the threads of nut P/N MS17825–7 for damage, but does not state what to do if the threads have damage. This proposed AD would require inspecting for damage to the threads of the nut indicated by uneven threads, missing threads, or cross-threading, and if the nut has any damaged threads, removing the nut from service.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 89 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this proposed AD.

Inspecting the tightening torque of the T/R plug would take about 0.5 work-hour for an estimated cost of $43 per helicopter and $3,827 for the U.S. fleet.

Inspecting for correct installation of the outboard and inboard faces of the T/R duplex bearing and the condition of the T/R duplex bearing, T/R plug threads, and nut threads would take about 2 work-hours for an estimated cost of $170 per helicopter and $15,130 for the U.S. fleet, per inspection cycle.

Assembling and installing the T/R duplex bearing assembly would take about 2 work-hours for an estimated cost of $170 per helicopter and $15,130 for the U.S. fleet, per inspection cycle.

If required, the parts for replacing the T/R duplex bearing, internal spacer, external spacer, bearing liner assembly, and T/R control rod would cost about $4,200, and parts for replacing the T/R plug would cost about $171.

The FAA has included all known costs in this cost estimate. According to Leonardo, however, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

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

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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, I certify that this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866,
2. Would not affect intrastate aviation in Alaska, and
3. Would 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.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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:

■ a. Removing Airworthiness Directive 2020–13–02, Amendment 39–21147 (85 FR 37551, June 23, 2020); and

■ b. Adding the following new airworthiness directive:

Leonardo S.p.a.: Docket No. FAA–2020–1026; Project Identifier MCAI–2020–00745–R.

(a) Applicability

This airworthiness directive (AD) applies to Leonardo S.p.a. Model A119 and AW119 MKII helicopters, certificated in any category, with a tail rotor (T/R) duplex bearing part number (P/N) 129–0160–11–103 (T/R duplex bearing) installed.

(b) Unsafe Condition

This AD defines the unsafe condition as structural failure of the T/R assembly, possibly due to an incorrect installation. This condition could result in loss of T/R pitch change control and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD replaces AD 2020–13–02, Amendment 39–21147 (85 FR 37551, June 23, 2020) (AD 2020–13–02).

(d) Comments Due Date

The FAA must receive comments by January 4, 2021.

(e) 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.

(f) Required Actions

(1) Within 10 hours time-in-service (TIS), remove the lockwire that secures the T/R plug P/N 129–0160–45–103 (T/R plug) to the bearing liner assembly P/N 109–0135–16–101 (bearing liner assembly). Without loosening the T/R plug first, inspect the tightening torque of the T/R plug by increasing the torque up to 30.5 Nm and inspect for any movement the moment torque is applied.

(i) If there is no movement and the tightening torque is at least 30.5 Nm, before further flight, install lockwire by following the Accomplishment Instructions, part I, paragraph 4, of Leonardo Helicopters Emergency Alert Service Bulletin (EASB) No. 119–105, Revision A, dated June 3, 2020 (EASB 119–105 Rev A).

(ii) If there is any movement or the tightening torque is less than 30.5 Nm, before further flight, comply with paragraph (f)(2) of this AD.

(2) Within 50 hours TIS, unless required before further flight by paragraph (f)(1)(ii) of this AD, and thereafter at intervals not to exceed 200 hours TIS, inspect to determine whether the P/N and serial number (S/N) are visible on the outboard and inboard faces of the T/R duplex bearing by following the Accomplishment Instructions, part II, paragraphs 4 through 13 (except paragraphs 9.1, 13.1, and 13.2), of EASB 119–105 Rev A. Instead of the excluded steps, do the following:

Note 1 to paragraph (f)(2): You are not required to discard parts and you may use equivalent tooling to that identified in EASB 119–105 Rev A.

(i) If the P/N and S/N markings are visible on the outboard or inboard face of the T/R duplex bearing, before further flight, remove from service the T/R duplex bearing, internal spacer P/N 129–0160–43–101 (internal spacer), external spacer P/N 129–0160–44–101 (external spacer), bearing liner assembly, and T/R control rod P/N 109–0135–02–101 (T/R control rod).

(ii) If the P/N and S/N markings are not visible on the inboard face of the T/R duplex bearing, before further flight, inspect the T/R duplex bearing, T/R plug, and nut by following the Accomplishment Instructions, part II, paragraphs 14 and 15 (but not paragraphs 15.1 through 15.2), of EASB 119–105 Rev A. For purposes of this inspection, damage to the races may be indicated by non-movement of the inner race, movement of the outer race, deformation, roughness, or incorrect installation; and damage to the threads of the T/R plug and nut may be indicated by uneven threads, missing threads, or cross-threading.

(A) If the T/R duplex bearing has any rough rotation, brinelling, spalling, chipping, flaking, evidence of overheated bearing balls, or damage to the races, before further flight, remove from service the T/R duplex bearing, the internal spacer, the external spacer, the bearing liner assembly, and the T/R control rod.

(B) If the T/R plug or nut has any damaged threads, before further flight, remove from service the affected part.

(C) Reassemble the T/R duplex bearing assembly by following the Accomplishment Instructions, part II, paragraphs 16 through 31, of EASB 119–105 Rev A.

(3) As of the effective date of this AD, do not install a T/R duplex bearing P/N 129–0160–11–103 on any helicopter unless you have complied with the requirements in paragraph (f)(2) of this AD.

(g) Credit for Previous Actions

(1) Accomplishment of AD 2020–13–02 before the effective date of this AD is considered acceptable for compliance with paragraph (f)(1) and the initial inspection required by paragraph (f)(2) of this AD.

(2) Actions accomplished before the effective date of this AD in accordance with the procedures specified in Leonardo Helicopters EASB No. 119–100, dated August 7, 2019, or Leonardo Helicopters EASB No. 119–105, dated May 18, 2020, are considered acceptable for compliance with the corresponding actions specified in paragraph (f)(1) and the initial inspection required by paragraph (f)(2) of this AD.

(h) Special Flight Permits

Special flight permits are prohibited.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-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.

(j) Additional Information

(1) Leonardo Helicopters EASB No. 119–100, dated August 7, 2019, and Leonardo Helicopters EASB No. 119–105, dated May 18, 2020, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di

Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD No. 2020–0128, dated June 4, 2020. You may view the EASA AD on the internet at *https://www.regulations.gov* in the AD Docket.

(k) Subject

Joint Aircraft Service Component (JASC) Code: 6400, Tail Rotor System.

Issued on November 9, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–25322 Filed 11–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0889; Airspace Docket No. 20–ASO–25]

RIN 2120–AA66

Proposed Amendment of Class D Airspace, and Class E Airspace; Smyrna, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace, and Class E airspace extending upward from 700 feet above the surface at Smyrna Airport, Smyrna, TN. An evaluation of airspace in the area determined this airport to require an adjustment of Class D and E airspace. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before January 4, 2021.

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 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2020–0889; Airspace Docket No. 20–ASO–25, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11E, 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 7400.11E 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 Avenue, 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 would amend Class D airspace and Class E extending upward from 700 feet above the surface at Smyrna Airport, Smyrna, TN, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on 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 (Docket No. FAA–2020–0889 and Airspace Docket No. 20–ASO–25) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons 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–2020–0889; Airspace Docket No. 20–ASO–25.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the 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 the **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 between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas,

air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to Title 14 Code of Federal Regulations part 71 to amend Class D airspace for Smyrna, TN as the FAA has determined that extensions of 1.2 miles each side of the 142° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles southeast of the airport, and within 1.2-miles each side of the 181° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles south of the airport are necessary for the safety of IFR aircraft landing at Smyrna Airport. Also, the Class D ceiling would be reduced from 3,000 feet to 2,500 feet as per the request of the air traffic facilities involved. In addition, the FAA proposes to update Class E airspace extending upward from 700 feet above the surface by increasing the airport radius from 9-miles to 11.5 miles. Also, the reference to Nashville Class C, in the Class D description, would be removed as it is not necessary (7400.11, 1003.b).

Class D airspace and Class E airspace designations are published in Paragraphs 5000 and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, 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.

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 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 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.

Lists 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 Federal Aviation Administration Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO TN D Smyrna, TN [Amended]

Smyrna Airport, TN
(Lat. 36°00′32″ N, long. 86°31′12″ W)

That airspace extending upward from the surface to but not including 2,500 feet MSL within a 3.9-mile radius of the Smyrna Airport, and within 1.2 miles each side of the 142° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles southeast of the airport, and within 1.2-miles each side of the181° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles south of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times 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.

* * * * *

ASO TN E5 Nashville, TN [Amended]

Nashville International Airport, TN
(Lat. 36°07′28″ N, long. 86°40′41″ W)
Smyrna Airport
(Lat. 36°00′32″ N, long. 86°31′12″ W)
Sumner County Regional Airport
(Lat. 36°22′30″ N, long. 86°24′30″ W)
Lebanon Municipal Airport
(Lat. 36°11′25″ N, long. 86°18′56″ W)
Murfreesboro Municipal Airport
(Lat. 35°52′43″ N, long. 86°22′39″ W)
John C. Tune Airport
(Lat. 36°10′59″ N, long. 86°53′11″ W)
Vanderbilt University Medical Center Hospital Point In Space Coordinates
(Lat. 36°08′30″ N, long. 86°48′6″ W)

That airspace extending upward from 700 feet above the surface within a 15 mile radius of Nashville International Airport, and within a 11.5-mile radius of Smyrna Airport, and within a 7-mile radius of Sumner County Regional Airport, and within a 10-mile radius of Lebanon Municipal Airport, and within a 9-mile radius of Murfreesboro Municipal Airport, and within an 8.6-mile radius of John C. Tune Airport, and that airspace within a 6-mile radius of the Point In Space serving Vanderbilt University Medical Center Hospital.

Issued in College Park, Georgia, on November 12, 2020.

Matthew N. Cathcart,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2020–25400 Filed 11–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 42

[Docket No. PTO–C–2020–0055]

Request for Comments on Discretion To Institute Trials Before the Patent Trial and Appeal Board

AGENCY: Patent Trial and Appeal Board, United States Patent and Trademark Office, Department of Commerce.

ACTION: Request for comments; extension of comment period.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) published a request for comments in the **Federal Register** on October 20, 2020, seeking public comment on considerations for instituting trials before the Office under the Leahy Smith America Invents Act (AIA). Through this document, the USPTO is extending the period for public comment until December 3, 2020.

DATES: *Comment date:* Written comments must be received on or before December 3, 2020.

ADDRESSES: For reasons of government efficiency, comments must be submitted through the Federal eRulemaking Portal at *www.regulations.gov.* To submit comments via the portal, enter docket number PTO–C–2020–0055 on the home page and click ''search.'' The site will provide a search results page listing all

documents associated with this docket. Find a reference to this Request for Comments and click on the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted in ADOBE® portable document format or MICROSOFT WORD® format. Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

Visit the Federal eRulemaking Portal (*www.regulations.gov*) for additional instructions on providing comments via the portal. If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below for special instructions regarding how to submit comments by mail or by hand delivery, based on the public's ability to obtain access to USPTO facilities at the time.

FOR FURTHER INFORMATION CONTACT: Scott C. Weidenfeller, Vice Chief Administrative Patent Judge, by telephone at 571–272–9797.

SUPPLEMENTARY INFORMATION: On October 20, 2020, the USPTO published a document in the **Federal Register** requesting public input on considerations for instituting trials before the Office under the Leahy-Smith America Invents Act (AIA). *See* Request for Comments on Discretion to Institute Trials Before the Patent Trial and Appeal Board, 85 FR 66502 (Oct. 20, 2020). In that document, the USPTO indicated it is considering the codification of its current policies and practices, or the modification thereof, through rulemaking and wished to gather public comments on the Office's current approach and on various other approaches suggested to the Office by stakeholders. To assist in gathering public input, the USPTO published questions, and sought focused public comments, on appropriate considerations for instituting AIA trials. The document requested public comments on or before November 19, 2020.

Through this document, the USPTO is extending the period for public comment until December 3, 2020, to give interested members of the public additional time to submit comments. All other information and instructions to commenters provided in the October 20, 2020, notice remain unchanged. Previously submitted comments do not need to be resubmitted.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2020–25490 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 139

[EPA–HQ–OW–2019–0482; FRL–10016–34–OW]

RIN 2040–AF92

Vessel Incidental Discharge National Standards of Performance; Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification.

SUMMARY: The Environmental Protection Agency (EPA) is announcing three virtual public meetings on its proposed rulemaking Vessel Incidental Discharge National Standards of Performance. The proposed rulemaking promulgated under the Vessel Incidental Discharge Act (VIDA) of 2018 was published in the **Federal Register** on October 26, 2020. The three virtual public meetings will be held in November 2020 to provide a brief background on the rulemaking, identify key changes from existing federal requirements, and describe how to submit comments on the proposed rulemaking. More information on the proposed standards and the directions for meeting proceedings are available on the EPA web page at *https://www.epa.gov/vessels-marinas-and-ports/vessel-incidental-discharge-act-vida-engagement-opportunities.*

DATES: The Agency will hold virtual public meetings on November 9, 10, and 17, 2020. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public meetings.

ADDRESSES: EPA will be holding the public meetings virtually. Please register for the public meetings through the following link: *https://register.gotowebinar.com/register/6377760488136984080.*

Documents related to the proposal are available for public inspection through the Federal eRulemaking Portal: *https://www.regulations.gov,* Docket ID No. EPA–HQ–OW–2019–0482.

FOR FURTHER INFORMATION CONTACT: Juliette Chausson, Water Division, Environmental Protection Agency Region 9; telephone number: (415) 972–3440; email address: *chausson.juliette@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Environmental Protection Agency (EPA) has published for public comment a proposed rulemaking under the Vessel Incidental Discharge Act (VIDA) that would establish national standards of performance for marine pollution control devices for discharges incidental to the normal operation of primarily non-military and non-recreational vessels 79 feet in length and above into the waters of the United States or the waters of the contiguous zone. The proposed standards can be found in the **Federal Register** at 85 FR 67818, October 26, 2020. The proposed national standards of performance were developed in coordination with the U.S. Coast Guard (USCG) and in consultation with interested Governors. The proposed standards, once finalized and implemented through corresponding USCG regulations addressing implementation, compliance, and enforcement, would reduce the discharge of pollutants from vessels and streamline the current patchwork of federal, state, and local vessel discharge requirements. Additionally, EPA is proposing procedures for states to follow if they choose to petition EPA to issue an emergency order, to review any standard of performance, regulation, or policy, to request additional requirements with respect to discharges in the Great Lakes, or to apply to EPA to prohibit one or more types of vessel discharges proposed for regulation in this rulemaking into specified waters to provide greater environmental protection.

II. Meeting Information

EPA will be hosting three virtual public meetings on these proposed standards to provide a brief background on the rulemaking, identify key changes from existing federal requirements, and describe how to submit comments on the proposed rulemaking to EPA.

Registration for the public meetings is available at *https://register.gotowebinar.com/register/6377760488136984080.* More information on the proposed standards and the directions for meeting proceedings are available on the EPA web page at *https://www.epa.gov/vessels-marinas-and-ports/vessel-incidental-discharge-act-vida-engagement-opportunities.*

The schedule for the virtual public meetings is as follows:

1. November 9, 2020, 2 p.m. to 4 p.m. EST.
2. November 10, 2020, 10 a.m. to 12 p.m. EST.
3. November 17, 2020, 12 p.m. to 2 p.m. EST.

If you require special accommodations, please contact Juliette Chausson at *chausson.juliette@epa.gov* or call (415) 972–3440 to make arrangements.

John T. Goodin,

Director, Office of Wetlands, Oceans and Watersheds, Office of Water.

[FR Doc. 2020–24778 Filed 11–17–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2020–0302; FRL–10013–54]

RIN 2070–AB27

Modification of Significant New Uses of Certain Chemical Substances (20–2.M)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend significant new use rules (SNURs) issued under the Toxic Substances Control Act (TSCA) for certain chemical substances, which were the subject of a premanufacture notice (PMN) and a significant new use notice (SNUN). EPA is proposing these amendments following review of SNUNs for the chemical substances and based on review of new and existing data. Specifically, this action proposes to amend the SNURs to allow certain new uses reported in the SNUNs without additional notification requirements and modify the significant new use notification requirements based on the actions and determinations for the SNUN submissions.

DATES: Comments must be received on or before December 18, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0302, using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* William Wysong, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–4163; email address: *wysong.william@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this proposed rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of the chemical substance (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This proposed rule may affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28 and must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a SNUR must certify their compliance with the SNUR requirements. Any person who exports or intends to export the chemical substance that is the subject of a final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) and 40 CFR 721.20, and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Background

A. What action is the Agency taking?

EPA is proposing amendments to the SNURs for certain chemical substances in 40 CFR part 721, subpart E. A SNUR for a chemical substance designates certain activities as a significant new use. Persons who intend to manufacture or process the chemical substance for the significant new use must notify EPA at least 90 days before commencing that activity. The required notification (*i.e.,* a SNUN) initiates EPA's evaluation of the intended use within the applicable review period. Manufacture and processing for the significant new use may not commence until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required with that determination.

B. What is the Agency's authority for taking this action?

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors and may issue or modify a TSCA section 5(e) order and/or amend the SNUR promulgated under TSCA section 5(a)(2). Procedures and criteria for modifying or revoking SNUR requirements appear at 40 CFR 721.185.

C. How do the SNUR general provisions apply to this action?

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the final rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. According to 40 CFR 721.1(c), persons subject to these SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In determining whether and how to modify the significant new uses for the chemical substances that are the subject of these SNURs, and as described in the preamble to the proposed rule, EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, and the four TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to Proposed Significant New Use Rule Amendments and Proposed Changes

EPA is proposing to amend the significant new use and recordkeeping requirements for chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number and SNUN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) number (if assigned for non-confidential chemical identities).
- Citation for the final SNUR. This is the citation to the final rule that established the SNUR that EPA is proposing to amend.
- Basis for the proposed amendment.
- Potentially Useful Information. This is information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substance in support of a request by the PMN submitter to modify the TSCA 5(e) order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use designated as such by the SNUR.
- CFR citation. This is the citation for the codified SNUR that EPA is proposing to amend.

PMN P–99–1202 and SNUN S–15–6

Chemical name: Sulfonyl azide intermediate (generic).

CAS number: Not Available.

Citation for the final SNUR: December 17, 2003 (68 FR 70174) (FRL–7307–3).

Basis for the modified significant new use rule: P–99–1202 and S–15–6 state that the generic (non-confidential) use of the substance is as a reactive additive for polymers. Based on submitted test data, EPA identified concerns for blood, kidney and lung toxicity from inhalation exposure to the PMN substance. Based on analogue data, EPA identified concerns for aquatic toxicity. The original SNUR was issued based on EPA's determination that the chemical substance met the concern criteria at 40 CFR 721.170(b)(3)(i) and (b)(4)(ii) and requires notification if the substance is released to water, manufactured domestically, or processed or used as a powder.

On March 6, 2015, EPA received a SNUN (S–15–6) for the significant new use of importing the chemical substance as a powder. The applicable review period for the SNUN expired on June 18, 2015. Based on submitted test data, EPA identified concerns for blood, kidney and lung toxicity from inhalation exposure to the PMN substance. EPA did not find that import of the granular form of the SNUN substance would cause an unreasonable risk to human health because it contained particles that are greater than 200 microns and would not result in inhalation exposures. The proposed amendment to the SNUR would modify the significant new use notification requirement to require notification if the chemical substance as a powder contains greater than 1% of particles by weight less than 200 microns.

This proposed amendment is based on 721.185, EPA's review of a significant new use notice. After reviewing the notice, EPA concluded that there is no need to require additional notice from persons who propose to engage in identical or similar activities.

Potentially Useful Information: Certain information may be potentially useful to characterize the health and environmental effects of the chemical substance in support of submitting a SNUN for a significant new use that would be designated by this proposed SNUR. The results of specific organ toxicity and aquatic toxicity testing would help characterize the potential health and environmental effects of the chemical substance.

CFR citation: 40 CFR 721.983.

PMN P–90–226; SNUNs P–96–1408, S–08–6, S–09–4, S–13–49, S–16–5, and S–17–6.

Chemical name: Titanate [Ti6O13 (2-)], dipotassium.

CAS number: 12056–51–8.

Citation for the final SNUR: November 13, 2015 (80 FR 70171) (FRL–9935–43).

Basis for the modified significant new use rule: The generic use of the chemical substance is as a friction material. An order for P–90–226 was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) based on a finding that the chemical substance may present an unreasonable risk of injury to human health. Based on test data for the substance, EPA identified concerns for lung effects. The final SNUR issued on November 13, 2015 required notification for domestic manufacture, non-industrial use, manufacture other than by the methods described in premanufacture notice P–90–226 and significant new use notices P–96–1408, S–08–6, S–09–4, and S–13–49, and manufacture producing respirable, acicular fibers with an average aspect ratio of greater than 5. The average

aspect ratio is defined as the ratio of average length to average diameter.

On June 22, 2016, EPA received S–16–5 for the generic (non-confidential) use of abrasion resistant applications. The applicable review period expired on February 8, 2019. Based on test data for the substance, EPA identified concerns for lung effects. Based on the activities described in the SNUN, an order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a determination that the chemical substance may present an unreasonable risk of injury to human health. In addition to the restrictions identified for the SNUR, the TSCA section 5(e) order for S–16–5 required that the substance be manufactured as described in the SNUN.

On February 14, 2017, EPA received S–17–6 for the generic (non-confidential) use of physical characteristics modifier for industrial use in certain solid composite articles. The applicable review period expired on June 14, 2018. Based on test data for the substance, EPA identified concerns for lung effects. Based on the activities described in the SNUN, an order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a determination that the chemical substance may present an unreasonable risk of injury to human health. In addition to the restrictions identified for the SNUR, the TSCA section 5(e) order for S–17–6 required that the substance be manufactured as described in the SNUN including the resulting particle size distribution. The order also required respiratory protection for workers exposed by inhalation and included a new chemical exposure limit of 0.8 mg/m^3.

The proposed amendment to the SNUR would retain the existing significant new use notification requirements but would remove the manufacturing processes described in S–16–5 and S–17–6 from the scope of the significant new use. It would also add worker inhalation protection requirements for workers who are exposed by inhalation to S–17–6, along with related recordkeeping requirements.

This proposed amendment is based on 721.185, EPA's review of a significant new use notice. After reviewing the notice, EPA concluded that there is no need to require additional notice from persons who propose to engage in identical or similar activities.

Potentially Useful Information: Certain information may be potentially useful to characterize the health effects of the chemical substances if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated as such by this proposed SNUR. The results of pulmonary effects testing would help characterize the potential health effects of the chemical substance.

CFR citations: 40 CFR 721.9675.

PMN P–11–316

Chemical name: Cyclohexane, oxidized, by-products from, distn. residues.

CAS number: 1014979–92–0.

Citation for the final SNUR: April 4, 2012 (77 FR 20296) (FRL–9333–3).

Basis for the modified significant new use rule: P–11–316 identified the generic (non-confidential) uses for the substance as an industrial solvent in closed and open systems, and as an accelerant in permitted industrial explosives. The SNUR was issued based on EPA's determination that the chemical substance met the concern criteria at 40 CFR 721.170(b)(4)(ii). Based on test data on analogous esters, EPA predicted toxicity to aquatic organisms may occur at concentrations that exceed 4 parts per billion (ppb) of the PMN substance in surface waters. The SNUR required notification for manufacturing, processing or use resulting in releases to surface waters that exceed 4 ppb.

On July 22, 2017, the PMN submitter sent four acute ecotoxicity studies to address the environmental toxicity concerns identified for the SNUR. EPA evaluated the studies and determined that toxicity to aquatic organisms may occur at concentrations that exceed 470 ppb. Because there is still potential for water releases that exceed 470 ppb, the proposed amendment to the SNUR would modify the significant new use notification requirement to require notification for manufacturing, processing, or use resulting in releases in surface waters that exceed 470 ppb.

This proposed amendment is based on EPA's determination under 40 CFR 721.185(a)(1) that the test data sent to EPA provide a reasonable basis for concluding that activities designated as significant new uses of the substance will not present an unreasonable risk of injury to human health or the environment.

Potentially Useful Information: Certain information may be potentially useful to characterize the environmental effects of the chemical substance if a manufacturer or processor is considering submitting a SNUN. The results of chronic aquatic toxicity testing would help characterize the potential environmental effects of the chemical substance.

CFR citation: 40 CFR 721.10288.

PMN P–98–1028; and SNUNs S–14–9, S–17–12, and S–17–15

Chemical name: 1,2,4,5,7,8-hexoxonane, 3,6,9-triethyl-3,6,9-trimethyl-.

CAS number: 24748–23–0.

Citation for the final SNUR: September 21, 2012 (77 FR 58666) (FRL–9357–2).

Basis for the modified significant new use rule: P–98–1028 states that the use of the chemical substance is as a viscosity modifier in the manufacture of polypropylene manufactured and supplied as a solution in at least 40 percent mineral spirits. The SNUR was issued based on EPA's determination that the chemical substance met the concern criteria at 40 CFR 721.170(b)(4)(ii). Based on test data on analogous peroxides, EPA predicted toxicity to aquatic organisms. The SNUR required notification for use of the chemical substance other than as a viscosity modifier in the manufacture of polypropylene manufactured and supplied as a solution in at least 40 percent mineral spirits.

On March 21, 2014, EPA received S–14–9 for the generic (non-confidential) use of a polymerization initiator. The applicable review period for the SNUN expired on June 18, 2014. Based on test data on analogous peroxides, EPA identified concerns for toxicity to aquatic organisms at a concentration as low as 1 ppb. Based on information contained in the SNUN, EPA did not find that use of the substance as a polymerization initiator would cause an unreasonable risk to human health or the environment.

On March 22, 2017, EPA received S–17–12 for the generic (non-confidential) use of a polymerization initiator. The applicable review period expired on March 18, 2019. Based on test data for the substance, EPA identified concerns for lung, liver, kidney, and blood effects, reproductive/developmental toxicity, dermal sensitization, and aquatic toxicity. Based on the activities described in the SNUN, an order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a determination that the chemical substance may present an unreasonable risk of injury to human health and the environment. The TSCA section 5(e) order for S–17–12 required dermal and respiratory protection for exposed workers, hazard communication requirements, no application method that generates a mist, vapor or aerosol, and no releases

to surface waters that exceed 56 ppb (a change from the assessment of 1 ppb for S–14–9).

On August 31, 2017, EPA received S–17–15 for the generic (non-confidential) use of a polymerization initiator. The applicable review period expired on March 18, 2019. Based on test data for the substance, EPA identified concerns for lung, liver, kidney, and blood effects, reproductive/developmental toxicity, dermal sensitization, and aquatic toxicity. Based on the activities described in the SNUN, an order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a determination that the chemical substance may present an unreasonable risk of injury to human health and the environment. The TSCA section 5(e) order for S–17–15 required dermal and respiratory protection for exposed workers, hazard communication requirements, no application method that generates a mist, vapor or aerosol, and no releases to surface waters that exceed 56 ppb.

The proposed amendment to the SNUR would remove use of the chemical substance other than as a viscosity modifier in the manufacture of polypropylene manufactured and supplied as a solution in at least 40 percent mineral spirits from the scope of the significant new use. It would also add notification requirements for worker protection, hazard communication, releases to surface waters exceeding 56 ppb, and application methods that generate a mist, vapor, or aerosol based on the TSCA 5(e) orders issued for S–17–12 and S–17–15, along with related recordkeeping requirements.

This proposed amendment is based on 721.185, EPA's review of a significant new use notice. After reviewing the notice, EPA concluded that there is no need to require additional notice from persons who propose to engage in identical or similar activities.

Potentially Useful Information: Certain information may be potentially useful to characterize the health and environmental effects of the chemical substance in support of a request to modify the TSCA section 5(e) order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated as such by this proposed SNUR. The results of a toxicokinetics and chronic aquatic toxicity testing would help characterize the potential health and environmental effects of the chemical substance.

CFR citation: 40 CFR 721.10432.

PMN P–15–326 and SNUN S–17–11

Chemical name: Polyfluorohydrocarbon.

CAS number: Not Available.

Citation for the final SNUR: May 16, 2016 (81 FR 30452) (FRL–9944–77).

Basis for the modified significant new use rule: P–15–326 states that the generic (non-confidential) use of the chemical substance is as a specialty gas and transfer fluid. The SNUR was issued based on EPA's determination that the chemical substance met the concern criteria at § 721.170(b)(3)(i) and (b)(3)(ii). Based on test data on the chemical substance and structure-activity relationship (SAR) analysis of test data on analogous substances, EPA identified concerns for neurotoxicity, developmental toxicity, and cardiac sensitization. The SNUR requires notification for any use of the substance other than the confidential uses listed in the PMN or any use in a consumer product.

On January 19, 2017, EPA received SNUN S–17–11 for the significant new use generically described as a foam additive. The applicable review period for the SNUN expired on January 22, 2020. Based on submitted tests for the chemical substance, EPA identified concerns for neurotoxicity, systemic toxicity, and developmental toxicity. Based on the activities described in the SNUN, EPA determined under TSCA section 5(a)(3)(C) that the significant new use is not likely to present an unreasonable risk.

The proposed amendment to the SNUR would remove the confidential use described in S–17–11 from the scope of the significant new use. It would also designate as a significant new use any use other than the confidential uses described in P–15–326 and S–17–11.

This proposed amendment is based on 721.185, EPA's review of a significant new use notice. After reviewing the notice, EPA concluded that there is no need to require additional notice from persons who propose to engage in identical or similar activities.

Potentially Useful Information: Certain information may be potentially useful to characterize the health effects of the chemical substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated as such by this proposed SNUR. The results of specific target organ toxicity testing would help characterize the potential health effects of the chemical substance.

CFR citation: 40 CFR 721.10907.

PMN P–15–607 and S–17–13

Chemical name: 1,2,4,5,7,8-hexoxonane, 3,6,9-trimethyl-, 3,6,9-tris(alkyl) derivs.

CAS number: Not Available.

Citation for the final SNUR: May 16, 2016 (81 FR 30542) (FRL–9944–77).

Basis for the modified significant new use rule: P–15–607 states that the generic (non-confidential) use of the chemical substance is as a polymerization initiator. The SNUR was issued based on EPA's determination that the chemical substance met the concern criteria at 40 CFR 721.170(b)(4)(i) and (ii). Based on test data on the substance and on analogous peroxides, EPA predicted toxicity to aquatic organisms at concentrations in surface waters that exceed 55 ppb. The SNUR required notification for any use other than the confidential use specified in the PMN.

On March 22, 2017, EPA received S–17–13 for the generic (non-confidential) use of a polymerization initiator. The applicable review period expired on March 18, 2019. Based on test data for an analogous peroxide chemical, EPA identified concerns for lung, liver, kidney, and blood effects, reproductive/developmental toxicity, dermal sensitization, and aquatic toxicity. Based on the activities described in the SNUN, an order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a determination that the chemical substance may present an unreasonable risk of injury to human health and the environment. The TSCA section 5(e) order for S–17–13 required dermal and respiratory protection for exposed workers, hazard communication requirements, no application method that generates a mist, vapor or aerosol, and no releases to surface waters that exceed 56 ppb.

The proposed amendment to the SNUR would remove *uses other than the confidential use* described in P–15–607 from the scope of the significant new use. It would also add notification requirements for worker protection, hazard communication, releases to water exceeding 56 ppb, and application methods that generate a mist, vapor, or aerosol based on the TSCA 5(e) order issued for S–17–13, along with related recordkeeping requirements.

This proposed amendment is based on 721.185, EPA's review of a significant new use notice. After reviewing the notice, EPA concluded that there is no need to require additional notice from persons who propose to engage in identical or similar activities.

Potentially Useful Information: Certain information may be potentially useful to characterize the health and environmental effects of the chemical substance in support of a request to modify the TSCA section 5(e) order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated as such by this proposed SNUR. The results of a toxicokinetics and chronic aquatic toxicity testing would help characterize the potential health and environmental effects of the chemical substance.

CFR citation: 40 CFR 721.10922.

V. Rationale for the Proposed Rule

In those instances where EPA expanded the scope of or added a significant new use, as discussed in Unit IV., the Agency identified concerns associated with certain uses. In those instances where EPA eliminated significant new uses, the Agency no longer identified concerns with those new uses. In addition to considering the factors discussed in Unit IV., EPA determined that those uses could result in changes in the type or form of exposure to the chemical substance, increased exposures to the chemical substance, and/or changes in the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of the chemical substance.

VI. Applicability of the Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant new use, EPA must determine that the use is not ongoing. EPA solicits comments on whether any of the uses that are not currently a significant new use under the SNURs addressed in this proposed rule, but which would be regulated as a ''significant new use'' if this proposed rule is finalized, are ongoing. These specific new uses are use without certain worker protection for the SNUR at 40 CFR 721.9675, and processing or use involving an application method that generates a dust, vapor, mist, or aerosol, worker protection, hazard communication, and water release requirements for the SNURs at 40 CFR 721.10432 and 10922. EPA designates November 18, 2020 as the cutoff date for determining whether the use is ongoing. EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of public release of the proposed SNUR rather than as of the effective date of the final rule. If uses begun after public release were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements, because a person could defeat the SNUR by initiating the proposed significant new use before the rule became effective, and then argue that the use was ongoing as of the effective date of the final rule.

Thus, any persons who begin commercial manufacture or processing activities with the chemical substance that are not currently a significant new use under the current rule but which would be regulated as a ''significant new use'' if this proposed rule is finalized, must cease any such activity as of the effective date of the rule if and when finalized. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VII. Development and Submission of Information

TSCA section 5 generally does not require developing any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, order or consent agreement under TSCA section 4, then TSCA section 5(b)(1)(A) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known or reasonably ascertainable (40 CFR 720.50). Unit IV. lists potentially useful information for all SNURs addressed in this proposed rule. Descriptions of this information are provided for informational purposes. The potentially useful information identified in Unit IV. will be useful to EPA's evaluation of a chemical substance in the event that someone submits a SNUN for a significant new use pursuant to the SNURs address in this proposed rule. Companies who are considering submitting a SNUN are encouraged, but are not required, to develop the potentially useful information on the substance, which may assist with EPA's analysis of the SNUN.

EPA strongly encourages persons, before performing any testing, to consult with the Agency. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing on vertebrate animals, EPA encourages dialogue with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialogue with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

The potentially useful information listed in Unit IV may not be the only means of providing information to evaluate the chemical substance. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following: Human exposure and environmental release that may result from the significant new use of the chemical substances; and information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VIII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN under 40 CFR part 720, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 721.25 and 40 CFR 720.40. E–PMN software is available electronically at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this proposed rule. The EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2020–0302.

X. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This proposed rule would modify SNURs for chemical substances that

were the subject of a PMN and a SNUN. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not subject to Executive Order 13771 (82 FR 9339, February 3, 2017), because this action is not a significant regulatory action under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA (44 U.S.C. 3501 *et seq.*). Burden is defined in 5 CFR 1320.3(b). The information collection activities associated with new chemical SNURs have already been approved under OMB control number 2070–0012 (EPA ICR No. 0574). This action does not impose any burden requiring additional OMB approval.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320.

If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

D. Regulatory Flexibility Act (RFA)

Pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR would not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in this SNUR as a ''significant new use.'' Because these uses are ''new'' based on all information currently available to EPA it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, 14 in FY2017, and 18 in FY2018 and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $16,000 to $2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about $10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this proposed SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

E. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

F. Executive Order 13132: Federalism

This action would not have a 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, as specified in Executive Order 13132, entitled ''*Federalism*'' (64 FR 43255, August 10, 1999).

G. Executive Order 13175: Consultation and Coordination With Indian Tribe Governments

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor would it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''*Consultation and Coordination with Indian Tribal Governments*'' (65 FR 67249, November 9, 2000), do not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This proposed rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children. EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22,

2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards and is therefore not subject to considerations under NTTAA section 12(d) (15 U.S.C. 272 note).

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 3, 2020.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, for the reasons stated in the preamble, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Amend § 721.983 by revising paragraphs (a)(1) and (2)(ii) to read as follows:

§ 721.983 Sulfonyl azide intermediate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonyl azide intermediate (PMN P–99–1202 and SNUN S–15–6) is subject to reporting under this section for the significant new use described in paragraph (a)(1) of this section.

(2) * * *

(i) * * *

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to import, process, or use this chemical substance as a powder unless less than 1% of particles by weight are less than 200 microns.

* * * * *

■ 3. Amend § 721.9675 by revising paragraphs (a)(1), (2)(i) and (ii), and (b)(1) to read as follows:

§ 721.9675 Titanate [Ti6O13 (2-)], dipotassium.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as titanate [Ti6O13 (2-)], dipotassium (PMN P–90–226; SNUNs P–96–1408, S–08–6, S–09–4, S–13–49, S–16–5, and S–17–6; CAS No. 12056–51–8)) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Protection in the workplace.* For manufacturing, processing, and use of SN–17–6: Requirements as specified in § 721.63(a)(4) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 10. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include particulate including solid or liquid droplets.

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) consent order for this substance. The NCEL is 0.8 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach that are approved by EPA, will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) consent order.

(B) [Reserved]

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (l). In addition, a significant new use of the substance is importation of the chemical substance if: (A) Manufactured by other than the method described in premanufacture notice P–90–226 and significant new use notices P–96–1408, S–08–6, S–09–4, S–13–49, S–16–5, and S–17–6.

(B) Manufactured producing respirable, acicular fibers with an average aspect ratio of greater than 5. The average aspect ratio is defined as the ratio of average length to average diameter. For manufacture of S–17–6: Manufacture with a particle size distribution containing greater than 30% of particles less than 10 microns.

(b) * * *

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers and processors of this substance as specified in § 721.125 (a) through (d) and (i).

* * * * *

■ 4. Amend § 721.10288 by revising paragraphs (a)(1) and (2)(i) to read as follows:

§ 721.10288 Cyclohexane, oxidized, by-products from, distn. residues.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as cyclohexane, oxidized, by-products from, distn. residues (PMN P–11–316; CAS No. 1014979–92–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4) and (c)(4) where N = 470 ppb.

* * * * *

■ 5. Amend § 721.10432 by revising paragraphs (a)(1), (2)(i) through (iv) and (b)(2) to read as follows:

§ 721.10432 1,2,4,5,7,8-Hexoxonane, 3,6,9-triethyl-3,6,9-trimethyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,2,4,5,7,8-hexoxonane, 3,6,9-triethyl-3,6,9-trimethyl- (PMN P–98–1028 and SNUNs S–14–9, S–17–12, and S–17–15; CAS No. 24748–23–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5) and (6)(v), and (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50. For purposes of § 721.63(b) the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a)

through (f), and (g)(1)(iv) and (vi), (2)(v), (3), (4)(i) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), required human health hazard statements include allergic skin reaction. For purposes of § 721.72(g)(2), required human health precautionary statements include where engineering controls are not determined to be adequate, use respiratory protection. For purposes of § 721.72(g)(3), required environmental hazard statements include this substance may cause long lasting harmful effects to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial commercial, and consumer activities.* It is a significant new use to process or use the substance with an application method that generates a mist, vapor, or aerosol.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4) and (c)(4) where N = 56 ppb.

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

* * * * *

■ 6. Amend § 721.10907 by revising paragraphs (a)(1) and (2)(i) to read as follows:

§ 721.10907 Polyfluorohydrocarbon (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyfluorohydrocarbon (PMN P–15–326 and SNUN S–17–11) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to use the substance other than for the confidential uses described in PMN P–15–326 and SNUN S–17–11.

* * * * *

■ 7. Amend § 721.10922 by:

■ a. Revising paragraphs (a)(1) through (2)(ii);

■ b. Adding paragraphs (a)(2)(iii) and (iv);

■ c. Revising paragraph (b)(1); and

■ d. Removing paragraph (b)(3).

The revisions and additions read as follows:

§ 721.10922 1,2,4,5,7,8-Hexoxonane, 3,6,9-trimethyl-, 3,6,9-tris(alkyl) derivs. (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 1,2,4,5,7,8-hexoxonane, 3,6,9-trimethyl-, 3,6,9-tris(alkyl) derivs. (PMN P–15–607 and SNUN S–17–13) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5) and (6)(v), and (b) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50. For purposes of § 721.63(b) the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1)(iv) and (vi), (2)(v), (3), (4)(i) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), required human health hazard statements include allergic skin reaction. For purposes of § 721.72(g)(2), required human health precautionary statements include where engineering controls are not determined to be adequate, use respiratory protection. For purposes of § 721.72(g)(3), required environmental hazard statements include this substance may cause long lasting harmful effects to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial commercial, and consumer activities.* It is a significant new use to process or use the substance with an application method that generates a mist, vapor, or aerosol.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4) and (c)(4) where N = 56 ppb.

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

* * * * *

[FR Doc. 2020–25032 Filed 11–17–20; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 20112–0302]

RIN 0648–BK13

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Harvest Specifications for the Central Subpopulation of Northern Anchovy

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to revise the annual reference points, including the overfishing limit (OFL), acceptable biological catch (ABC) and annual catch limit (ACL), for the central subpopulation of northern anchovy in the U.S. exclusive economic zone off the west coast under the Coastal Pelagic Species Fishery Management Plan. NMFS prepared this rulemaking in response to a September 2020 court decision (*Oceana, Inc.* v. *Ross et al.*) that vacated the OFL, ABC, and ACL for the central subpopulation of northern anchovy and ordered NMFS to promulgate a new rule in compliance with the Magnuson-Stevens Fishery Conservation and Management Act and Administrative Procedure Act. NMFS is proposing an OFL of 119,153 metric tons (mt), an ABC of 29,788 mt, and an ACL of 25,000 mt. If the ACL for this stock is reached or projected to be reached, then fishing will be closed until it reopens at the start of the next fishing season. This rule is intended to conserve and manage the central subpopulation of northern anchovy off the U.S. West Coast.

DATES: Comments must be received by December 3, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0136 by the following method:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-*

0136, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method 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. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: The coastal pelagic species (CPS) fishery in the U.S. exclusive economic zone (EEZ) off the West Coast is managed under the CPS Fishery Management Plan (FMP). The Pacific Fishery Management Council (Council) developed the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* The six species managed under the CPS FMP are Pacific sardine, Pacific mackerel, jack mackerel, northern anchovy (northern and central subpopulations), market squid, and krill. The CPS FMP is implemented by regulations at 50 CFR part 660, subpart I. As required by the Magnuson-Stevens Act, the CPS FMP and its implementing regulations are consistent with the Act's 10 National Standards. Among other things, the National Standards require that conservation and management measures ''prevent overfishing while achieving, on a continuing basis, the optimum yield (OY) from each fishery'' (National Standard 1) and ''be based upon the best scientific information available'' (National Standard 2).[1]

Background on CPS Management for Monitored Stocks

Management unit stocks in the CPS FMP are classified under three management categories: active, monitored, and prohibited harvest species. Stocks in the active category (Pacific sardine and Pacific mackerel) are managed under catch limits that are set periodically or annually based on regular stock assessments. Fisheries for these stocks have biologically significant levels of catch, or biological or socioeconomic considerations requiring this type of relatively intense harvest management procedure. In contrast, stocks in the monitored category (jack mackerel, northern anchovy, and market squid[2]) are managed under multi-year catch limits and annual quantitative or qualitative reviews of available abundance data without regular stock assessments or required annual adjustments to target harvest levels. This is in part due to the fact that fisheries for monitored stocks do not have biologically significant catch levels and, therefore, do not require intensive harvest management to ensure overfishing is prevented. Allowable catches for stocks in the monitored stock category are set well below maximum sustainable yield (MSY) levels to ensure overfishing does not occur. As a result, monitored stocks have been adequately managed by tracking landings and examining available abundance indices. In contrast, the ACLs for stocks in the active category are set much closer to their respective OFL/MSY levels due to the higher certainty in their OFLs. Species in both categories may be subject to management measures such as catch allocation, gear regulations, closed areas, or closed seasons. For example, trip limits and a limited entry permit program apply to all CPS finfish. The prohibited harvest species category is comprised only of krill, which is subject to a complete prohibition on targeting and retention.

In September 2011, NMFS approved Amendment 13 to the CPS FMP, which modified the framework process used to set and adjust fishery specifications and for setting ACLs and accountability measures (AMs). Amendment 13 conformed the CPS FMP with the 2007 amendments to the Magnuson-Stevens Act and the Magnuson-Stevens Act National Standard 1 guidelines at 50 CFR 600.310, which for the first time required ACLs be established for management unit species (with exceptions). Specifically, Amendment 13 maintained the existing reference points and the primary harvest control rules for the monitored stocks (jack mackerel, northern anchovy, and market squid), including the large uncertainty buffer built into the ABC control rule for the finfish stocks. Amendment 13 established a management framework under which the OFL for each monitored stock is set equal to its existing MSY value, if available, and ABC values are set at 25 percent of the OFL to provide a 75 percent scientific uncertainty buffer. It was recognized at the time that these OFLs would be uncertain, therefore the Council's Scientific and Statistical Committee (SSC) recommended that a large uncertainty buffer be used (*i.e.,* 75 percent reduction) to prevent overfishing. ACLs are then set either equal to or lower than the ABC; annual catch targets (ACTs), if deemed necessary, can be set less than or equal to the ACL, primarily to account for potential management uncertainty.

Compared to the management framework for stocks in the active category, which uses annual estimates of biomass to calculate annual harvest levels, the ACLs for the monitored finfish stocks are not based on annual estimates of biomass or any single estimate of biomass. As described previously, ACLs for monitored finfish are set at the ABC levels, which are no higher than 25 percent of the OFL. OFLs are set equal to estimates of MSY—an estimate that is intended to reflect the largest average fishing mortality rate or yield that can be taken from a stock over the long term (if available) or set based on a stock-specific method if deemed more appropriate. Although the control rules and harvest policies for monitored CPS stocks are simpler than the active category control rules, the inclusion of a large non-discretionary buffer between the OFL and ABC both protects the stock from overfishing and allows for a relatively small sustainable harvest. In recognition of the low fishing effort and landings for these stocks, the Council chose this type of passive management framework for some finfish stocks in the FMP because it has proven sufficient to prevent overfishing while allowing for sustainable annual harvests, even when the year-to-year biomasses of these stocks fluctuate.

Although the allowable catch levels are not required to be adjusted each year for stocks in the monitored category, the Council's Coastal Pelagic Species Management Team is required by regulation to provide the Council an annual Stock Assessment and Fishery Evaluation report, which documents significant trends or changes in the resource, marine ecosystems, and fishery over time, and assesses the relative success of existing State and Federal fishery management programs.[3] The report documents trends in landings, changes in fishery dynamics

[1] 16 U.S.C. 1851(a)(1) and (2); *see also,* 50 CFR 600.310 and 50 CFR 600.315.

[2] Market squid is statutorily exempt from the general requirement to be managed using an ACL because of its short life-cycle.

[3] *See* 50 CFR 600.315(d).

and available population, and biological information for all CPS stocks and is available for Council review each November. The purpose of this report is to provide the Council the ability to react to the best scientific information available and propose new catch limits if and when changes to management are needed to prevent overfishing or achieve the OY. A similar process is used for other stocks managed throughout the U.S. for which catch limits are not adjusted annually.

Purpose of the Proposed Rule

On September 2, 2020, in *Oceana* v. *Ross, et al.* (hereafter referred to as ''*Oceana II*''), the U.S. District Court for the Northern District of California vacated and remanded to NMFS the May 31, 2019 final rule [4] (hereafter referred to as the ''2019 Rule'') setting the OFL, ABC, and ACL for the central subpopulation of northern anchovy (hereafter referred to as ''central anchovy''). The Court ordered NMFS to promulgate a new rule in compliance with the Magnuson-Stevens Act and Administrative Procedure Act (APA) within 120 days of the Court's order. NMFS had issued the 2019 Rule pursuant to a 2018 decision from the same Court in *Oceana* v. *Ross* (hereafter referred to as ''*Oceana I*''), in which the Court had vacated the ACL established in a 2016 final rule. The purpose of this current proposed rule is to set an OFL, ABC, and ACL in compliance with the control rules for monitored stocks in the CPS FMP, which would protect the stock from overfishing and accommodate the needs of fishing communities.

The 2016 Rule and Oceana I

On October 26, 2016, NMFS published a final rule [5] (hereafter referred to as the ''2016 Rule'') that established ACLs and, where necessary, other reference points (*i.e.,* OFL and ABC) for stocks in the monitored category of the CPS FMP. The 2016 Rule included an ACL of 25,000 mt for central anchovy.[6] As described earlier in Background on CPS Management for Monitored Stocks ACLs for the monitored finfish stocks are not based on annual estimates of biomass or any single estimate of biomass. Accordingly, the OFL for central anchovy established in Amendment 13 to the CPS FMP was set equal to the long-term MSY estimate previously established in Amendment 8 to the CPS FMP. This long-term MSY estimate was calculated based on biomass estimates from 1964–1990 (Conrad 1991 [7]). In accordance with the ABC control rule for monitored stocks, the ABC was then reduced to 25,000 mt by a precautionary 75 percent buffer to account for scientific uncertainty in the OFL, which is primarily tied to the population volatility of small pelagic fishes. This buffer and resulting ABC were recommended by the Council's SSC and approved by the Council.[8] The ACL was set equal to the ABC at 25,000 mt because there was no additional management uncertainty to justify setting the ACL lower than the ABC.

Oceana subsequently challenged the 2016 Rule in Court, in part, because a recent publication at the time, MacCall et al. 2016 [9] (hereafter referred to as the ''MacCall publication''), purported that recent biomass levels (2009–2011) had been below the ACL implemented in the 2016 Rule and remained low in 2015. In approving the ACL for the 2016 Rule, NMFS considered this information, but ultimately rejected the low biomass estimates in the MacCall publication despite their being the only estimates for the more recent time period, because NMFS determined that the biomass estimates were not reliable estimates for the entire central anchovy stock. The primary rationale for NMFS making this determination was that multiple public reviews by NMFS and other outside scientists, including the Council's SSC, had determined that the statistical method used in the MacCall publication to calculate adult anchovy biomass from counts of anchovy eggs and larvae was not appropriate. Also, NMFS and outside scientists identified inherent issues with using data from only the California Cooperative Fisheries Investigation (CalCOFI) core region for estimating total anchovy biomass, as the spatial scale of this region does not encompass the entire range of central anchovy, as well as the high uncertainty the publication itself reported for its estimates. Additionally, at the time of the 2016 Rule, the actual anchovy catch by the fishery in certain years had exceeded the publication's biomass estimate for those years, reinforcing NMFS' determination that the estimates were not reliable.

The Court found, however, that the 2016 Rule for central anchovy, including the ACL it established, violated the Magnuson-Stevens Act and the APA. The Court also found that the values for the OFL and ABC on which the ACL was based were arbitrary and capricious because, in the Court's determination, they were outdated. In particular, the Court found that, ''the OFL, ABC, and ACL are arbitrary and capricious because Plaintiff has presented substantial evidence that the OFL, ABC, and ACL are not based on the best scientific information available.'' The Court also found that, ''it was arbitrary and capricious for the Service to fail to consider whether the OFL, ABC, and ACL still prevented overfishing in light of their direct reliance on a [maximum sustainable yield] estimate from a 1991 study that evidence in the administrative record indicated was out of date.'' On January 18, 2018, the Court granted Oceana's motion for summary judgment. On January 18, 2019, the Court granted Oceana's motion to enforce the judgment and ordered NMFS to promulgate a new rule in compliance with the Magnuson-Stevens Act and the APA by April 18, 2019.

The 2019 Rule and Oceana II

As a result of the Court's decision in *Oceana I,* which vacated the 2016 Rule, NMFS was charged with determining and implementing a new OFL, ABC and ACL unilaterally (*i.e.,* outside of the Council process). In determining these new reference points, NMFS considered the District Court's opinion, which indicated that the vacated reference points were not reflective of recent biomass levels. This conclusion was despite the fact that the vacated 2016 reference points were set using long-term information and thus were representative of the long-term population structure and variability of central anchovy. To address the Court's concern, NMFS examined ways to use recent abundance estimates in the 2019 Rule. However, NMFS also determined that a new OFL and ABC that significantly deviated from the management approach set in the CPS FMP for stocks in the monitored category would not be in accordance with the CPS FMP. After reviewing various methods and data, NMFS determined that with the limited time available to analyze more complex approaches for setting new reference points, the most appropriate path for setting an OFL for central anchovy in accordance with the CPS FMP was to

[4] 84 FR 25196; May31, 2019.

[5] 81 FR 74309.

[6] The 2016 Rule only implemented an ACL for central anchovy. The OFL and ABC for central anchovy were implemented via Amendment 13 to the CPS FMP in 2011 based on values established in Amendment 8 to the CPS FMP in 2000. However, since the 2016 ACL was calculated based on the previously implemented OFL and ABC, the Court vacated all three reference points.

[7] Conrad, J.M. 1991. A Bioeconomic Model of the Northern Anchovy. Administrative Report LJ–91–26. La Jolla, CA: NMFS Southwest Fisheries Science Center.

[8] *See* 16 U.S.C. 1852(g).

[9] MacCall, A.D., W.J. Sydeman, P.C. Davison, and J.A. Thayer. 2016. Recent collapse of northern anchovy biomass off California. *Fisheries Research* 175: 87–94.

use an approach similar to the one used by the Council and approved by NMFS for developing an OFL and ABC for the northern subpopulation of northern anchovy (NSNA) in 2010. This method had been previously approved by the Council's SSC and NMFS and would allow the use of recent biomass estimates.

Consistent with the approach used to set NSNA reference points, the OFL, ABC, and ACL set in the 2019 Rule were based on averaging three of the four estimates of relative abundance for central anchovy available from recent NMFS surveys and a recent estimate of the rate of fishing mortality for central anchovy at MSY or E_{MSY}.[10] The three abundance estimates NMFS used were from NMFS' 2016 and 2018 acoustic-trawl method (ATM) surveys, which were 151,558 mt and 723,826 mt respectively, and NMFS' 2017 daily egg production method (DEPM) survey, which was 308,173 mt. NMFS excluded from further consideration a fourth available abundance estimate, an ATM estimate for 2017, because the ATM survey in the summer of 2017 was focused on the northern portion of the U.S. West Coast as well as the west coast of Vancouver Island, British Columbia, Canada, and was not designed to sample the complete range of central anchovy. The principal objectives of that survey were to gather data on the northern stock of Pacific sardine and, to some extent, the NSNA, and therefore the survey chose not to sample south of Morro Bay, California, which is an area where central anchovy are typically found.

The fishing mortality rate estimate was from an analysis that the Southwest Fisheries Science Center (SWFSC) completed in 2016 as part of an effort examining minimum stock size thresholds for CPS. For potentially deriving an E_{MSY}, this analysis used the most current time-series data available, which comes from the last model-based stock assessment for central anchovy completed for formal management purposes (Jacobson et al. 1995 [11]). This analysis produced estimates of F_{MSY} based on eight alternative models. NMFS used the average of the four best fitting models from that work to calculate an E_{MSY} of 0.239. This methodology resulted in an OFL of 94,290 mt, an ABC of 23,573 mt, and an ACL of 23,573 mt.

In determining whether to use the previously described abundance estimates to develop the reference points for the 2019 Rule, NMFS considered scientific reviews presented to the Council at its April 2018 meeting [12], which stated that ATM estimates cannot be considered absolute estimates of biomass and should not be used to directly inform management on their own. Specifically, these reviews concluded that, unless ATM estimates are used as a data source in an integrated stock assessment model, two things would need to occur before they could be used to directly inform management: (1) Addressing the area shoreward of the survey that is not sampled; and (2) conducting a management strategy evaluation to determine the appropriate way to incorporate an index of abundance into a harvest control rule. However, NMFS was comfortable at that time with using the ATM estimates from 2016 and 2018, because they represent recent information on the stock and can be considered minimum estimates of the total stock size, and using these estimates in a time series to set an OFL, in combination with reducing the OFL by 75 percent to set the ABC and ACL, would prevent overfishing. Therefore, NMFS determined that using these ATM estimates in the manner described earlier represented use of the best scientific information available for determining the reference points in the 2019 Rule.

In determining whether the new reference points were based on the best scientific information available and that the best scientific information available supported that they would prevent overfishing, NMFS again considered the data in the MacCall publication, as well as other existing data sources, including a publication by Thayer et al. 2017 [13] (hereafter referred to as the ''Thayer publication''), historical estimates of biomass from the last stock assessment NMFS completed for central anchovy in 1995, and more recent estimates of relative abundance from NMFS' ATM and DEPM surveys. Additionally, by this time NMFS also had a better understanding of the anomalous oceanographic conditions that had occurred between 2013–2016 that had caused major shifts in fish distributions during that time.[14]

After NMFS' second review and consideration of the MacCall publication and its results, NMFS found that it was not the best scientific information available on historical and recent abundance, nor on annual changes in abundance over time. NMFS maintained that the flaws identified in the 2016 review rendered the biomass estimates as unreliable and too uncertain. NMFS also found the Thayer publication was not the best scientific information available for determining appropriate 2019 reference points because the Thayer publication used the same methodology as the MacCall publication to calculate biomass estimates, and so suffered from the same deficiencies. NMFS concluded that its own, more recent estimates of abundance, which contained high and low abundance estimates, constituted the best scientific information available for setting 2019 reference points and preventing overfishing. Oceana once again challenged the OFL, ABC, and ACL established in the 2019 Rule. The Court ultimately vacated the 2019 Rule, finding that: (1) NMFS failed to discredit the evidence put forth by Oceana (*i.e.,* the MacCall and Thayer publications); (2) the OFL, ABC, and ACL were not based on the best scientific information available and therefore violated National Standard 2; and (3) the 2019 Rule violated National Standard 1's requirement to prevent overfishing. The Court also concluded that the MacCall and Thayer publications constitute the best scientific information available regarding recent anchovy abundance estimates and anchovy population fluctuations and that the OFL, ABC, and ACL set in the 2019 Rule were therefore arbitrary and capricious because they did not account for this best scientific information available. The Court further concluded that NMFS' dismissal of McCall and Thayer was arbitrary and capricious because it is ''so implausible that it could not be ascribed to a difference in view or the product of the agency's expertise.'' The Court pointed specifically to one of the reasons NMFS

[10] The calculation uses an E_{MSY}, which is the exploitation rate for deterministic equilibrium MSY and although similar in context is slightly different than a calculation of F_{MSY}.

[11] Jacobson L.D., N.C.H. Lo, and S.F. Herrick Jr. 1995. Spawning Biomass of the Northern Anchovy in 1995 and Status of the Coastal Pelagic Fishery During 1994. Administrative Report LJ–95–11. La Jolla, CA: NMFS Southwest Fisheries Science Center.

[12] *See* Methodology Review Panel Report: Acoustic Trawl Methodology Review for use in Coastal Pelagic Species Stock Assessments. This report is available on the Pacific Fishery Management Council website at: *https://www.pcouncil.org/documents/2018/04/agenda-item-c-3-attachment-2.pdf/.*

See Center for Independent Experts Independent Peer Review of the Acoustic Trawl Methodology (ATM). This report is available on the Pacific Fishery Management Council website at: *https://www.pcouncil.org/documents/2018/04/agenda-item-c-3-supplemental-attachment-3.pdf/.*

[13] Thayer, J.A., A.D. MacCall, and W.J. Sydeman. 2017. California anchovy population remains low, 2012–2015. CalCOFI Report Vol. 58.

[14] *See* New Marine Heatwave Emerges off West Coast, Resembles ''the Blob'' Available at: *https://www.fisheries.noaa.gov/feature-story/new-marine-heatwave-emerges-west-coast-resembles-blob.*

had cited for dismissing McCall and Thayer; namely, that Thayer is unreliable because it updated MacCall's estimate for 2015 but failed to correct its estimates for 2009–2014. Finally, the Court concluded that, ''the fact that NMFS calculated unchanging OFL, ABC, and ACL values for an indefinite period of time based on data from 2016 to 2018 (years in which the anchovy population was drastically increasing) demonstrates that NMFS did not consider the best scientific information available from MacCall and Thayer.''

Proposed Reference Points for the 2020 Fishing Year

As noted previously, the Court ordered NMFS to promulgate a new rule within 120 days of its September 2, 2020, order. NMFS therefore determined that, with such limited time available to review and analyze more complex approaches for setting these reference points, the most appropriate path at this time for setting an OFL for central anchovy in accordance with the FMP is to use the same method as in the 2019 Rule, however updated with the most recent information on the current status of central anchovy, the SWFSC's 2019 ATM estimate (810,634 mt). In making this decision, NMFS considered the Court's two primary findings: That the McCall and Thayer publications constituted the best scientific information available and that NMFS's 2019 ACL would not prevent overfishing in all years, based on the evidence presented to the Court at that time. NMFS responds to these findings in detail in the next section of this preamble.

The 2019 method for calculating reference points results in a proposed OFL of 119,153 mt, an ABC of 29,788 mt, and an ACL of 25,000 mt. However, NMFS had not anticipated the need to quickly develop new reference points, so to ensure that the reference points implemented through this action are based on the best scientific information available, NMFS is still reviewing whether other recent ATM or DEPM estimates from the SWFSC may be available to include in the calculation of the OFL. For example, NMFS is reviewing whether ATM estimates from 2015 and 2017 can be determined to be the best scientific information available and incorporated into the calculation. Therefore, NMFS is notifying the public with the publication of this proposed rule that the values in the beginning of this paragraph are subject to change, but based on current understanding, are likely to stay in a similar range. NMFS will not, however, set an ACL higher than 25,000 mt regardless of the ABC calculation. Although there is no management uncertainty that requires reducing the ACL from the ABC, prior environmental analyses have only analyzed an ACL up to 25,000 mt, which is also the Council's previous determination of OY for the stock. If NMFS does not limit the time period for which this rule is effective (a possibility that is discussed later in this preamble), these reference points will remain in place until changed conditions necessitate revisions to the FMP framework or changes to the reference points pursuant to the existing framework. If the ACL is reached, the fishery will be closed until the beginning of the next fishing season. The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** announcing the date of any such closure.

NMFS' 2020 Review of the MacCall and Thayer Publications

Although reference points proposed in this rule are similar to those previously vacated, NMFS has determined that they are based on the best scientific information available and that the best scientific information available shows that they will prevent overfishing, in compliance with National Standard 1. In making this determination, NMFS carefully reviewed and considered estimates of abundance from the MacCall and Thayer publications. The purpose of this review was to determine whether those estimates could or should be considered the best scientific information available regarding recent anchovy abundance estimates and anchovy population fluctuations. NMFS also looked at other historical and recent anchovy biomass estimates that had been previously determined to be the best scientific information available on anchovy biomass for years that the MacCall and Thayer publications also calculated estimates.

As stated earlier, for multiple reasons, previous reviews by NMFS and other independent scientists determined that the abundance estimates from the MacCall publication do not represent the best scientific information available for annual estimates of total central anchovy population. Specifically, NMFS and other outside scientists had valid concerns regarding the method used to try to estimate the total abundance of all adult (or spawning adult) anchovy in any one year from counts of anchovy eggs and larvae from only a portion of the California coast where anchovy are found and without using biological information collected from adult anchovy that same year. These conclusions are documented in a report from a May 2016 workshop [15] that included CPS experts from around the world, as well as in an October 2016 report [16] from NMFS scientists. Both of these reports were also subsequently endorsed by the Council's independent scientific review body (*i.e.,* the SSC).

In light of the Court's finding in *Oceana II* that, based on the record at the time, the MacCall and Thayer publications constituted the best scientific information available regarding recent anchovy abundance estimates and anchovy population fluctuations, NMFS re-examined the conclusions of the previously discussed 2016 scientific reviews of those publications. Specifically, NMFS reviewed the results of the May 2016 workshop, which was focused on anchovy and the data available to assess the status of the population. This workshop included experts from around the world on coastal pelagic species and was held as a direct result of the MacCall publication, as well as other evidence at the time that anchovy abundance was likely low (*e.g.,* Leising et al. 2015 [17]). The focus of the workshop was to review the available information on the abundance of anchovy and provide recommendations for conducting stock assessments or other ways of estimating total anchovy abundance that could be used for management, as well as to potentially provide input to the Council on the status of anchovy for their upcoming November 2016 meeting. One of the conclusions of this workshop was that although information on the total abundance of anchovy did not currently exist, and the best way to assess the population would be through a full stock assessment that integrates multiple data sources, there was nevertheless value in attempting to turn trends from eggs and larvae information from the CalCOFI survey into estimates of total anchovy abundance. This approach, called DEPM-lite, was viewed as an extension of the approach used by the MacCall publication, but with an

[15] *See* Report of the NOAA Southwest Fisheries Science Center & Pacific Fishery Management Council Workshop on CPS Assessments (May 2–5, 2016). This report is available on the Pacific Fisheries Management Council website, at *https://www.pcouncil.org/documents/2016/09/e2a_workshop_rpt_sept2016bb.pdf/.*

[16] *See* Egg and Larval Production of the Central Subpopulation of Northern Anchovy in the Southern California Bight (October 24, 2016). This report is available on the Pacific Fisheries Management Council website at *https://www.pcouncil.org/documents/2016/11/agenda-item-g-4-a-swfsc-report.pdf/.*

[17] Leisling, A.W. et al. State of the California Current 2013–14: El Nino Looming. CalCOFI Report Vol. 55.

attempt to correct for various issues identified in the calculations contained in the MacCall publication. Between May 2016 and October 2016, NMFS scientists attempted to correct for some of the technical issues originally expressed at the May 2016 workshop. Ultimately, however, NMFS scientists determined that the technical weaknesses could not be overcome and that it would be inappropriate to expand the egg and larval data from CalCOFI into adult biomass in the manner done in the MacCall publication. NMFS presented this analysis to the Council at its November 2016 meeting[16], and the Council's SSC agreed with NMFS' analysis of the technical weaknesses.[18] Specifically, the SSC stated:

> The egg and larval production indices presented in the SWFSC report represent the best available science for trends in spawning biomass in the CalCOFI survey area. However, the report did not expand the trend information to estimate absolute spawning biomass in that area. The SSC agrees that this expansion is not appropriate, because it would require scaling the egg and larval indices using the Daily Egg Production Methods estimates for the 1980s. Neither the winter nor spring survey is conducted at the right time to fully capture spawning of CSNA, and the degree of mismatch may vary through time due to changing oceanographic conditions. A proper expansion from eggs and larvae to spawning biomass would require data on sex ratio, mean female weight, and fecundity. Variability in the timing of spawning may also complicate interpretation of the egg and larval time series as an index of relative abundance. The spatial extent of the CalCOFI survey is limited (by depth and latitude) relative to the distribution of the broader CSNA population. The proportion of the population contained in the survey area at any given time is unknown and changes through time due, in large part, to oceanographic conditions. As trends in the CalCOFI survey area may not be representative of the broader population, it is difficult to infer population-level trends.

After this review, NMFS remains confident that those scientific reviews from 2016 were thorough and unbiased and finds no reason to disagree with their logic or conclusions.

Although the previously-discussed technical rationale is sound in concluding that neither the MacCall publication nor the Thayer publication using the same methods is the best scientific information available, NMFS acknowledges that those publications contain the only explicit biomass estimates from 2009–2014. NMFS also acknowledges that those publications show that the stock during that time decreased to a very low level and that the ''drastic anchovy population fluctuations'' contained in the publications ''are only (emphasis added) documented by MacCall (2016) and Thayer et al. (2017).'' NMFS notes that it has never disputed whether the anchovy population was relatively low during the 2009–2014 time period, at least in the core CalCOFI region; rather, NMFS disputes whether the population was as low as the flawed MacCall and Thayer estimates suggest and whether the adult population was as high as reported in the year preceding the purported decline. The methodological concerns with the MacCall and Thayer publications, combined with the additional uncertainty added by instances of combined fishery catches and predator consumption estimates (Warzybok et al. 2018 [19]) well exceeding MacCall and Thayer estimates for some years, have led NMFS to consistently conclude that the year-specific estimates in the MacCall and Thayer publications are not appropriate to use as independent measures for determining reference points for central anchovy and whether those reference points will prevent overfishing.

The authors of the MacCall and Thayer publications themselves cautioned against using their annual estimates as independent measures, stating, ''. . . . therefore estimates for recent single years are imprecise and should not be used individually for interpretation.'' Because of this, the Thayer publication suggests looking at the average of the last 4 years (2012–2015) provided in that publication, which is 24,300 mt, as evidence of the extremely low level of the stock. In 2018, however, as a result of newer data, the authors of the Thayer publication revised their estimated biomass for 2015,[20] which increased the 4-year average for 2012–2015 to approximately 46,000 mt. While 46,000 mt may still be considered relatively low, that low average is driven mainly by the anomalously low 2012 and 2013 estimates of 9,400 mt and 7,500 mt, respectively. It is also worth noting that 2013 is the year in which fishery catches of central anchovy exceeded the Thayer publication estimate of 7,500 mt—in other words, fishermen actually caught more anchovy than Thayer had estimated even existed. The estimates for the other years in Thayer's 4-year average were the 2014 estimate of 75,300 mt and the revised 2015 estimate of 92,100 mt. NMFS originally raised the point of the revised 2015 estimate to the Court because it changed the narrative of how low the stock may have been, and for how long, and the importance of having accurate estimates, not, as the Court suggested, because it made other estimates unreliable.

During the preparation of this proposed rule, NMFS again examined the MacCall and Thayer publications to ensure their complete consideration in making a determination on appropriate new reference points for central anchovy and whether they would prevent overfishing. Specifically, NMFS freshly reviewed the publications' annual estimates to determine whether, notwithstanding the high degree of uncertainty NMFS has previously determined those estimates contain, they should be relied on as evidence of both: (1) Anchovy abundance for the extraordinarily low years for which NMFS does not have comparable competing estimates; and (2) anchovy population fluctuations for the recent large annual changes in biomass.

As part of this review, NMFS compared overlapping estimates of biomass from the 1961–1994 time series of spawning stock biomass produced in NMFS' 1995 central anchovy stock assessment and recent NMFS ATM and DEPM estimates with estimates in the 1951–2017 Thayer publication's time series. The referenced NMFS stock assessment had been subject to a formal scientific review and determined to be the best scientific information available on the biomass of central anchovy. Although NMFS does not have alternative or competing estimates for 2009–2014, the years in which the Thayer publication estimated historically low anchovy abundance, NMFS does have competing estimates for 24 other years between 1961 and 2017. For these overlapping years, NMFS can find no reason that the estimates from the MacCall or Thayer publications should be considered the best scientific information available over existing NMFS estimates. In comparing the estimates for the historical time period (pre-1994), NMFS found that the average per-year

[18] *See* Scientific and Statistical Committee Report on Northern Anchovy Stock Assessment and Management Measures. This document is available on the Pacific Fishery Management Council website at: *https://www.pcouncil.org/documents/2016/11/agenda-item-g-4-a-supplemental-ssc-report.pdf./*

[19] Warzybok P., J.A. Santora, D.G. Ainley, R.W. Bradley, J.C. Field, P.J. Capitolo, R.D. Carle et al. 2018. Prey switching and consumption by seabirds in the central California Current upwelling ecosystem: Implications for forage fish management. *Journal of Marine Systems* 185: 25–39.

[20] *See* Updated Biomass Estimates of CSNA. This document is available on the Pacific Fishery Management Council website at: *https://pfmc.psmfc.org/CommentReview/DownloadFile?p=e982e162-4ec2-4b3b-8f1a-1da42a0bb81e.pdf&fileName=FI%20Letter%20to%20PFMC%20for%20Nov%202018%2C%20CSNA%20biomass%20update.pdf.*

difference in biomass estimates between Thayer and NMFS' estimates is over 550,000 mt, with the largest difference in any given year being nearly 1.8 million mt. The significant differences in these comparable estimates raises additional valid concerns about the reliability of the estimates found in the MacCall and Thayer publications, and further supports NMFS' rationale for concluding that, for those years for which data only exist from the MacCall and Thayer publications, that data cannot be considered the best scientific information available for making determinations about catch limits for anchovy.

A primary reason for the discrepancy between NMFS' estimates and the MacCall and Thayer estimates is likely the various methodological issues with the calculations found in those publications, which are described earlier in this preamble. These methodological issues are best highlighted when looking at the discrepancy in the estimates for 2017. In 2017, NMFS scientists estimated the spawning biomass of central anchovy to be 308,173 mt using DEPM. The Thayer publication's spawning biomass estimate for this same year is 1,169,400 mt—a difference of more than 860,000 mt. The DEPM method used by NMFS, like the method used in the MacCall and Thayer publications, uses egg and larval data; however, unlike the method used in the in MacCall and Thayer publications, the DEPM method does not expand that egg and larval data into adult biomass using biological data from a different time period (which in the case of MacCall and Thayer, was the 1980s). This method of expansion was the primary technical flaw identified with the MacCall and Thayer methodology, rendering the estimates from those publications unreliable for estimating total biomass. NMFS' 2017 DEPM estimate does not suffer from this same deficiency because it is a direct calculation derived using reproductive information from adult fish collected in the same year and same ship-based survey as the egg and larval information.

By using biological data from adult fish and eggs collected in the same year, as NMFS did in 2017, there was no need to expand the egg data into estimates of biomass-based adult information from a different time period, as done in the MacCall and Thayer publications. In addition, the 2017 DEPM estimate developed by NMFS was derived using egg data from more than just the core CalCOFI region, as was used in the MacCall and Thayer publications. The survey data used for this estimate was from north of San Francisco, California, to San Diego, California, and therefore covered the majority of the U.S. range of central anchovy. By comparison, the northern extent of the CalCOFI data used in the MacCall and Thayer estimates is near Point Conception, California, which is well south of San Francisco, and therefore includes less than half of the coastline covered in the NMFS survey. Despite using survey data from a larger region and using a scientifically-validated method to calculate the biomass of small pelagics, NMFS' biomass estimate for 2017 was nevertheless over 860,000 mt lower than the Thayer estimate for that year.

These discrepancies in comparable data from both the historical and recent estimates, as well as the other biological and technical issues, render the estimates from MacCall and Thayer unreliable as a measure of the actual population size of central anchovy. These estimates are therefore not the best scientific information available on the historical annual biomass estimates of anchovy in any given year. However, even if NMFS were to consider the 1951–2015 time series from MacCall and Thayer as best scientific information available for the annual abundance of central anchovy, which it does not, NMFS notes that during that 57-year time frame over which the MacCall and Thayer publications presented biomass estimates, the biomass only dropped below 100,000 mt 15 times, or 26 percent of the time, and only stayed below 100,000 mt for more than one year twice over those 57 years: Once during the referenced 2009–2015 time period and once during the early 1950s. NMFS notes further, however, that for the period of purported low abundance in the early 1950s, catch of central anchovy in one of those years was over double the estimated biomass and three times greater in another. Therefore, those biomass estimates are likely underestimated. Given the infrequency of such low biomass, NMFS' proposed referenced points would have at least a 50 percent chance of preventing overfishing over the long term.[21]

Potential Additional Management Measures for Central Anchovy

Although NMFS has determined that the proposed OFL in combination with the proposed ABC and ACL will prevent overfishing into the future, NMFS is considering limiting the effectiveness of the ACL in this rule to 3 or 4 years. NMFS is considering this deviation from the standard practice for stocks in the monitored category in light of the fact that NMFS' SWFSC is currently working on a research stock assessment for central anchovy that could be completed in late 2021 or early 2022. This stock assessment has the potential to provide new information on the recent and historical abundance of central anchovy that could warrant a change in the currently proposed catch limits. However, NMFS also recognizes that the existing framework in the CPS FMP would allow the Council to react to such new information and revise the catch limits being proposed through this action if the new information warranted such a revision. Therefore, NMFS welcomes comments from the public on whether the final rule should include a time limit on the effectiveness of this rule, and whether that time limit should be 3 or 4 years.

NMFS is also considering imposing an alternative accountability measure in this rule that would automatically trigger a reduction to the ACL if the stock falls below a certain threshold for a certain period of time. For example, if NMFS determines that the best scientific information available shows that the abundance of the stock has or will go below 100,000 mt for two consecutive years, then the ACL would be reduced to 10,000 mt. As noted earlier, NMFS is confident that the proposed OFL in combination with the proposed ABC and ACL will prevent overfishing into the future, is representative of both the historical and recent abundance estimates, and takes into account potential fluctuations in anchovy biomass. NMFS is interested in commenters' views on whether a trigger mechanism such as that described in this paragraph is necessary to ensure overfishing is prevented.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the Magnuson-Stevens Act. The reason for using this regulatory authority is because this proposed rule must be published under an extremely aggressive timeline ordered by the U.S. District Court for the Northern District of California, which does not allow for compliance with the framework provisions of the CPS FMP. NMFS is issuing these proposed regulations under Magnuson-Stevens Act 305(d), 16 U.S.C. 1855(d), without a recommendation from the Council.

This proposed rule has been determined to not be significant for purposes of Executive Order 12866.

This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

[21] *See* 50 CFR 600.310(f)(2).

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act of 1980 (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of the analysis is available from NMFS (*see* **ADDRESSES**).

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (*see* 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

The action being implemented through this proposed rule is the establishment of a new OFL, ABC, and ACL for the central anchovy subpopulation. In addition to proposing new reference points, NMFS is also considering establishing, through this rulemaking, an accountability measure that would automatically trigger a reduction to the ACL. For example, if NMFS determines that the best scientific information available shows that the abundance of the stock has or will go below 100,000 mt for two consecutive years, then the ACL will be reduced to 10,000 mt.

The small entities that would be affected by the proposed action are the vessels that harvest central anchovy as part of the West Coast CPS purse seine fleet. The average annual per vessel revenue in 2017 for the West Coast CPS finfish small purse seine fleet, as well as for the few vessels that target anchovy off Oregon and Washington, was below $11 million; therefore, all of these vessels are considered small businesses under the RFA. Because each affected vessel is a small business, this proposed rule is considered to equally affect all of these small entities in the same manner. Therefore, this rule would not create disproportionate costs between small and large vessels/businesses. To evaluate whether this proposed rule could potentially reduce the profitability of affected vessels, NMFS compared current and average recent historical landings to the proposed ACL (*i.e.,* the maximum fishing level for each year). The proposed ACL for central anchovy is 25,000 mt, which is slightly higher than the vacated ACL (23,573 mt). In 2019, approximately 10,162 mt of central anchovy were landed. The annual average harvest from 2010 to 2019 for central anchovy was approximately 7,950 mt. Central anchovy landings have been well below the proposed ACL in 8 of the past 10 years. Therefore, although the establishment of a new ACL for this stock is considered a new management measure for the fishery, this proposed action should not result in changes in current fishery operations. As a result, the ACL proposed in this rule would be unlikely to limit the potential profitability to the fleet from catching central anchovy and therefore would not impose significant economic impacts.

The central anchovy fishery is a component of the CPS purse seine fishery off the U.S. West Coast, which generally fishes a complex of species that also includes the fisheries for Pacific sardine, Pacific mackerel, jack mackerel, and market squid. Currently there are 58 vessels permitted in the Federal CPS limited entry fishery off California. Annually, 32 of these 58 CPS vessels landed anchovy in recent years.

CPS finfish vessels typically harvest a number of other species, including Pacific sardine, Pacific mackerel, and market squid, making the central anchovy fishery only one component of a multi-species CPS fishery. Therefore, the revenue derived from this fishery is only part of what determines the overall revenue for a majority of the vessels in the CPS fleet, and the economic impact to the fleet from the action cannot be viewed in isolation. CPS vessels typically rely on multiple species for profitability because abundance of the central anchovy stock, like the other CPS stocks, is highly associated with ocean conditions and seasonality. Variability in ocean conditions and season results in variability in the timing and location of CPS harvest throughout the year. Because each species responds to ocean conditions in its own way, not all CPS stocks are likely to be abundant at the same time. Therefore, as abundance levels and markets fluctuate, the CPS fishery as a whole has relied on a group of species for its annual revenues.

NMFS reviewed and evaluated options for other methods and data sources to update the estimate of MSY or develop a new long-term OFL. However, NMFS had limited time to fully review these types of methods; therefore, an alternative such as this was not fully developed. Additionally, this action maintains the management approach set in the fisheries management plan (FMP) for stocks in the monitored category, which dictates how the OFL and ABC can be set, thereby limiting the alternatives for these values. The CPS FMP states that the ACL is set equal to the ABC or lower if determined necessary to prevent overfishing or for other OY considerations not already built into the ABC control rule. Although there is no management uncertainty that requires reducing the ACL from the ABC, prior environmental analyses have only analyzed an ACL up to 25,000 mt, which is also the Council's previous determination of OY for the stock. As previously stated, NMFS does not expect the proposed reduction in the ABC to negatively impact regulated fishermen, as the proposed ACL (25,000 mt) is higher than the vacated ACL (23,573 mt).

As discussed above, this action may also include a biomass threshold whereby, if the best scientific information available indicates the stock's abundance drops below this threshold, then the ACL would be automatically reduced. The reduced ACL has the potential to impact regulated fishermen through a consequent reduction in fishing opportunity, but the extent of economic impact would depend on a variety of factors, including the percentage of the reduction. While a temporarily reduced ACL would potentially limit fishing opportunity in the near term, which would consequently impose short-term economic costs, the purpose of a short-term impact such as this is to sustain the central anchovy stock for long-term social and economic benefits. However, average landings in this fishery over the last 10 years have only been 10,162 mt. Therefore, whether landings would actually be limited by such a reduction is unknown. NMFS is not proposing a specific biomass threshold in the proposed rule, but rather the option to implement one in the final rule dependent on analyses including public input. NMFS will further analyze potential economic impacts of a specific biomass threshold before adopting one during the final rule stage.

Thus, no significant alternatives to this proposed rule exist that would accomplish the stated objectives of the applicable statutes while minimizing any significant economic impact of this proposed rule on the affected small entities. However, as stated above, this proposed rule is not expected to have a significant economic impact on the regulated fishermen.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act of 1995.

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

Dated: November 12, 2020.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.511, revise paragraph (k)(1) to read as follows:

§ 660.511 Catch restrictions.

* * * * *

(k) * * *

(1) Northern Anchovy (Central Subpopulation): 25,000 mt.

* * * * *

[FR Doc. 2020–25334 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 85, No. 223

Wednesday, November 18, 2020

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 13, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by December 18, 2020 will be considered. 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.

Food and Nutrition Service

Title: Assessment of the Collection, Analysis, Validation, and Reporting of SNAP Employment and Training Data project.

OMB Control Number: 0584–New.

Summary of Collection: Section 17 [7 U.S.C. 2026] (a)(1) of the Food and Nutrition Act of 2008, as amended, provides general legislative authority for the planned data collection. It authorizes the Secretary of Agriculture to enter into contracts with private institutions to undertake research that will help to improve the administration and effectiveness of SNAP in delivering nutrition-related benefits. Under the Supplemental Nutrition Assistance Program (SNAP), States are required to operate an Employment and Training (E&T) program to help participants gain skills, education, training, and experience that lead to employment and greater economic self-sufficiency.

Need and Use of the Information: FNS will: (1) Identify and describe the current State and Federal systems that collect, validate, and analyze E&T data; (2) assess the current and future E&T data needs of Federal, Regional, and State staff; and (3) recommend a plan to improve how Federal, Regional, and State staff collect and use data for E&T program improvement and reporting. The data collection effort will culminate in a comprehensive final report of recommendations for FNS to meet its current and future data needs for the SNAP E&T program. The report will describe the current Federal, Regional, and State data systems and processes; the current and future data needs and goals of SNAP E&T; and the gaps between the current systems and data needs.

In addition, the report will recommend methods to address these gaps through changes to data systems and information technology (IT) solutions, improved business processes, and expanded technical assistance.

Description of Respondents: State, Local, Tribal Government, Private Sector (Business-for-profit and not-for profit).

Number of Respondents: 284.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 553.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program Emergency Allotments (COVID–19).

OMB Control Number: 0584–0652.

Summary of Collection: The Families First Coronavirus Response Act of 2020 Public Law 116–127, enacted March 18, 2020, includes a general provision that allows the Department of Agriculture to issue emergency allotments (EA). This is based on a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act related to an outbreak of COVID–19 when a State has also issued an emergency or disaster declaration. This collection is for activities associated with administering emergency allotments.

Need and Use of the Information: State agencies impacted by COVID–19 may submit a waiver request to their FNS Regional Office for approval to provide an EA to households to bring all households up to the maximum benefit due to pandemic related economic conditions. Because the EA waiver increases the monthly benefit of participants above the amount originally anticipated for this fiscal year, the amount of benefits issued and redeemed must be carefully tracked to ensure FNS does not exceed its appropriation. As such, it is necessary for FNS to collect information from State agencies.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 53.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 763.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–25444 Filed 11–17–20; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID: FSA–2020–0010]

Information Collection Request; County Committee Elections

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and entities on an extension with a revision of a currently approved information collection associated with FSA county committee elections. The collection of information from FSA farmers and ranchers is used to receive nominations from eligible voters for the FSA county committee.

DATES: We will consider comments we receive by January 19, 2021.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments, identified by Docket ID: FSA–2020–0010, by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail, Hand Delivery, or Courier:* Kyle Mansfield, Field Operations Specialist for the Deputy Administrator for Field Operations, Farm Service Agency, USDA, STOP 0542, 1400 Independence Avenue SW, Washington, DC 20250–0542.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Kyle Mansfield at the above address.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, contact Kyle Mansfield at (706) 552–2502 (voice). Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Title of Collection: County Committee Election.

OMB Control Number: 0560–0229.

Expiration Date of Approval: January 31, 2021.

Type of Request: Revision.

Abstract: This information collection is necessary to effectively allow farmers and ranchers to nominate potential candidates using the form FSA–669A for the FSA county committee election in accordance with the requirements as authorized by the Soil Conservation and Domestic Allotment Act, as amended. Specifically, FSA uses the information provided by the nominee annually or, if needed, throughout the year for special elections to create ballots for FSA county committee elections. Elections for FSA county committees are held each year; therefore, nominations for eligible nominees are requested each year. Any individual who meets the qualifications mentioned in form FSA–669A may be nominated by another person or by themselves. The form FSA–669A is used to collect the information for nominations; it requires the name and address of the nominee and the signatures of both the nominee and the person nominating the individual to be a nominee (only one signature is required for self-nominated individuals). The nominee must be eligible to vote in the designated FSA county committee election, eligible to hold the office of FSA county committee member, and willing to serve, if elected. For more information about FSA county committees, including elections, nominations, eligible voters, eligibility, and other related information, see the regulations in 7 CFR part 7. In addition, the form also includes a voluntary request for race, ethnicity, and gender information from the nominee. FSA is also using the form FSA–669A–3, Nomination Form for Urban Agriculture FSA Committee Election, to establish Urban Agriculture FSA County Committees in some cities.

The number of respondents increased by 500 in this collection due to more respondents interested in participating in the FSA county committee's election by either becoming an eligible voter or a County FSA committee member. The travel times decreased by 4,075 hours that have been removed from the collection. The respondents go to the county offices to do regular and customary business with FSA; this means no travel time is required specifically for the information collection and therefore, it is no longer included in the burden hour reporting.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response multiplied by the estimated total annual of responses.

Estimate of Average Time to Respond: Public reporting burden for collecting information under this notice is estimated to average 0.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information for all respondents.

Type of Respondents: Individuals (eligible voters).

Estimated Number of Respondents: 10,500.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Reponses: 10,500.

Estimated Average Time per Response: 0.25 hours.

Estimated Total Annual Burden on Respondents: 2,625 hours.

FSA is requesting comments on all aspects of this information to help us to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Evaluate the quality, ability and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget Approval.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–25367 Filed 11–17–20; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Survey of Housing Starts, Sales, and Completions (SOC)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on September 3, 2020 during a 60-day comment

period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau.

Title: Survey of Housing Starts, Sales, and Completions (SOC).

OMB Control Number: 0607–0110.

Form Number(s): SOC–QI/SF.1 and SOC–QI/MF.1.

Type of Request: Regular submission, Request for an Extension, without Change, of a Currently Approved Collection.

Number of Respondents: 21,600. (We collect data for approximately 21,600 new buildings a year. A builder or owner may be contacted several times based on how long the construction project takes. We estimate the average number of times we need to contact the builder or owner is 7.3239 times. Therefore, the total number of responses annually is 158,196.)

Average Hours per Response: 5 minutes.

Burden Hours: 13,183.

Needs and Uses: The U.S. Census Bureau is requesting an extension of the currently approved collection for the Survey of Housing Starts, Sales, and Completions, otherwise known as the Survey of Construction (SOC). Government agencies and private companies use statistics from SOC to monitor and evaluate the large and dynamic housing construction industry. Data for two principal economic indicators are produced from the SOC: New Residential Construction (housing starts and housing completions) and New Residential Sales. In addition, a number of other statistical series are produced, including extensive information on the physical characteristics of new residential buildings, and indexes measuring rates of inflation in the price of new buildings. These statistics are based on a sample of residential buildings in permit-issuing places and a road canvass in a sample of land areas not covered by building permit systems.

Census Bureau field representatives (FRs) mail forms SOC–QI/SF.1 and SOC–QI/MF.1 to new respondents to complete. A few days later, the FRs either call or visit the respondents to enter their survey responses into a laptop computer using the Computer Assisted Personal Interviewing (CAPI) software formatted for the SOC–QI/SF.1 and SOC–QI/MF.1 forms. The respondents are home builders, real estate agents, rental agents, or new homeowners of sampled residential buildings. FRs contact respondents multiple times based on the number of projects in the sample and the number of months required to complete the project.

The Census Bureau uses the information collected in the SOC to publish estimates of the number of new residential housing units started, under construction, completed, and the number of new houses sold and for sale. The Census Bureau also publishes many financial and physical characteristics of new housing units. Government agencies use these statistics to evaluate economic policy, measure progress towards the national housing goal, make policy decisions, and formulate legislation. For example, the Board of Governors of the Federal Reserve System uses data from this survey to evaluate the effect of interest rates. The Bureau of Economic Analysis uses the data in developing the Gross Domestic Product (GDP). The private sector uses the information for estimating the demand for building materials and the many products used in new housing and to schedule production, distribution, and sales efforts. The financial community uses the data to estimate the demand for short-term (construction loans) and long-term (mortgages) borrowing.

Affected Public: Individuals or households; Business or other for-profit organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 131 and 182.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and entering either the title of the collection or the OMB Control Number 0607–0110.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–25407 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Manufacturers' Shipments, Inventories, and Orders Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on September 3, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Census Bureau.

Title: Manufacturers' Shipments, Inventories, and Orders (M3) Survey.

OMB Control Number: 0607–0008.

Form Number(s): M–3(SD).

Type of Request: Regular submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: 5,000.

Average Hours per Response: 20 minutes.

Burden Hours: 20,000.

Needs and Uses: The U.S. Census Bureau is requesting a revision of the currently approved collection for the Manufacturers' Shipments, Inventories, and Orders (M3) survey. This survey collects monthly data from domestic manufacturers on Form M–3 (SD), which is mailed at the end of each month. Data requested are shipments, new orders, unfilled orders, and inventories by stage of fabrication. It is currently the only survey that provides broad-based monthly statistical data on the economic conditions in the domestic manufacturing sector. The survey is designed to measure current industrial activity and to provide an indication of future production commitments. The value of shipments measures the value of goods delivered during the month by domestic manufacturers. Estimates of new orders serve as an indicator of future production commitments and represent the current sales value of new orders received during the month, net of cancellations. Substantial accumulation

or depletion of backlogs of unfilled orders measures excess (or deficient) demand for manufactured products. The level of inventories, especially in relation to shipments, is frequently used to monitor the business cycle.

The M3 survey has been conducted monthly by the U.S. Census Bureau since 1957. The Advance Report on Durable Goods, Manufacturers' Shipments, Inventories and Orders is an advance snapshot of the current value of manufacturing in the U.S. It is available about 18 working days after each month. The M3 survey also produces the Full Report on Manufacturers' Shipments, Inventories and Orders. This report details information on the durable goods industries, and also includes the non-durable goods industries. In addition, the Full Report captures late receipts, and is available about 23 working days after each month. Beginning in 2021, the U.S. Census Bureau will be accelerating the non-durable manufacturing data in the advance high-level total manufacturing estimates for shipments and inventories. This additional data release will provide data users with early access to total manufacturing estimates, giving an early snapshot of the direction of this critical indicator. Prior to releasing the advance total manufacturing data, the U.S. Census Bureau submitted a memo of exception to the Office of Management and Budget. The advance statistics for shipments and inventories will be released at the same time as the Advance Report on Durable Goods Manufacturers' Shipments, Inventories and Orders.

The notice in the **Federal Register** on September 3, 2020 (Volume 85, No. 172, Pages 54981–54982) announcing our plans to submit this request included information on the possible upcoming collection of a new module of business expectation. At this time, research and testing for an uncertainty pilot collection is still underway; once any concrete timeline is determined, a request for this additional module will be submitted.

The M3 survey provides an essential component of the current economic indicators needed for assessing the evolving status of the economy and formulating economic policy. The Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) has designated this survey as a principal federal economic indicator. The shipments and inventories data are essential inputs to the gross domestic product (GDP), while the orders data are direct inputs to The Conference Board Leading Economic Index (LEI), which is a composite index of ten key elements designed to monitor the business cycle (*https://www.conference-board.org/data/bcicountry.cfm?cid=1*). The GDP and the LEI would be incomplete without these data. Orders for durable goods are an important leading economic indicator. Businesses and consumers generally place orders for durable goods when they are confident the economy is improving. A durable goods report showing an increase in orders is a sign that the economy is trending upwards. Durable goods orders tell investors what to expect from the manufacturing sector, a major component of the economy. The M3 survey also provides valuable and timely domestic manufacturing data for economic planning and analysis to business firms, trade associations, research and consulting agencies, and academia.

The data are used for analyzing short- and long-term trends, both in the manufacturing sector and as related to other sectors of the economy. The data on value of shipments, especially when adjusted for change in inventories, measure current levels of production. New orders figures serve as an indicator of future production commitments. Changes in the level of unfilled orders, because of excess or shortfall of new orders compared with shipments, are used to measure the excess (or deficiency) in the demand for manufactured products. Changes in the level of inventories and the relation of these to shipments are used to project future movements in manufacturing activity. These statistics are valuable for analysts of business cycle conditions, including members of the Council of Economic Advisers (CEA), the Bureau of Economic Analysis (BEA), the Federal Reserve Board (FRB), the Department of the Treasury, The Conference Board, business firms, trade associations, private research and consulting agencies, and the academic community.

Affected Public: Business or other for-profit organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 131, 182, and 193.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and entering either the title of the collection or the OMB Control Number 0607–0008.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–25457 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–202–2020]

Foreign-Trade Zone 18—San Jose, California; Application for Subzone Expansion; Lam Research Corporation; Fremont, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City of San Jose, grantee of FTZ 18, requesting an expansion of Subzone 18F on behalf of Lam Research Corporation in Fremont, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on November 12, 2020.

Subzone 18F consists of the following sites: Site 1 (29.28 acres)—4650 Cushing Parkway, Fremont, Alameda County; Site 4 (14.82 acres)—1 and 101 Portola Avenue, Livermore, Alameda County; Site 5 (7.3 acres)—7364 Marathon Drive and 7150 Patterson Pass Road, Unit G, Livermore, Alameda County; Site 7 (0.91 acres)—6757 Las Positas Road, Livermore, Alameda County; Site 8 (0.44 acres)—7888 Marathon Drive, Livermore, Alameda County; Site 9 (1.6 acres)—41707 Christy Street, Fremont, Alameda County; Site 11 (1.19 acres)—4050 Starboard Drive, Fremont, Alameda County; Site 12 (0.98 acres)—7650 Marathon Drive, Livermore, Alameda County; Site 13 (3.49 acres)—6551 West Schulte Road, Tracy, San Joaquin County; Site 14 (8.56 acres)—1201 Voyager Street, Livermore, Alameda County; and, Site 15 (2.77 acres)—20427 Corsair Boulevard, Hayward, Alameda County. The applicant is now requesting authority to expand the subzone to include an additional site (3.62 acres) located at 4405 Cushing Parkway, Fremont, Alameda County, which would be designated as Site 16. The expanded subzone would be subject to the existing activation limit of FTZ 18.

In accordance with the FTZ Board's regulations, Qahira El-Amin of the FTZ

Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is December 28, 2020. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 12, 2021.

A copy of the application will be available for public inspection in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Qahira El-Amin at *Qahira.El-Amin@trade.gov.*

Dated: November 12, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–25447 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–853]

Standard Steel Welded Wire Mesh From Mexico: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation

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

DATES: Applicable November 18, 2020.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado at (202) 482–4682 or Melissa Kinter at (202) 482–1413, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 2020, the Department of Commerce (Commerce) initiated a less-than-fair-value (LTFV) investigation of imports of standard steel welded wire mesh (wire mesh) from Mexico.[1] Currently, the preliminary determination is due no later than December 7, 2020.

Postponement of Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1)(A)(b)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner[2] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On November 2, 2020, the petitioners submitted a timely request that Commerce postpone the preliminary determination in the LTFV investigation.[3] The petitioners stated that their requested postponement ''will permit the agency to issue supplemental questionnaires to Aceromex, S.A. de C.V. (Aceromex) to clarify its initial responses and to accurately determine the magnitude of dumping that occurred during the period of investigation.''[4]

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination by 50 days (*i.e.,* 190 days after the date on which this investigation was initiated). As a result, Commerce will issue its preliminary determination no later than January 26, 2021. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: November 12, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–25448 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–831]

Seamless Refined Copper Pipe and Tube From the Socialist Republic of Vietnam: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation

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

DATES: Applicable November 18, 2020.

FOR FURTHER INFORMATION CONTACT: Ariela Garvett, 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) 482–3609.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 2020, the Department of Commerce (Commerce) initiated the less-than-fair value (LTFV) investigation of imports of seamless refined copper pipe and tube (copper pipe and tube) from the Socialist Republic of Vietnam (Vietnam).[1] Currently, the preliminary determination is due no later than December 7, 2020.

Postponement of the Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR

[1] *See Standard Steel Welded Wire Mesh from Mexico: Initiation of Less-Than-Fair-Value Investigation,* 85 FR 45167 (July 20, 2020) (*Initiation Notice*).

[2] The petitioners are Insteel Industries, Inc.; Mid South Wire Company; National Wire LLC; Oklahoma Steel & Wire Co.; and Wire Mesh Corp.

[3] *See* Petitioners' Letter, ''Standard Steel Welded Wire Mesh from Mexico—Petitioners' Request to Postpone Preliminary Determinations,'' dated November 2, 2020.

[4] *Id.* at 2.

[1] *See Seamless Refined Copper Pipe and Tube from the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigation,* 85 FR 47181 (August 4, 2020).

351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On November 5, 2020, the petitioner [2] submitted a timely request that Commerce postpone the preliminary determination in this LTFV investigation.[3] The petitioner stated that it requests postponement to provide adequate time for Commerce to analyze complex issues, to accommodate extensions of time provided to the respondent to complete the questionnaire and supplemental questionnaires, and to provide Commerce additional time to conduct a thorough analysis, including by issuing additional supplemental questionnaires.[4]

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination by 50 days (*i.e.,* 190 days after the date on which this investigation was initiated). As a result, Commerce will issue its preliminary determination no later than January 26, 2021. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination in this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: November 12, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–25449 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–DS–P

[2] The petitioner is the American Copper Tube Coalition, the members of which are Mueller Copper Tube Products, Inc.; Mueller Copper Tube West Co.; Mueller Copper Tube Company, Inc.; Howell Metal Company; and Linesets, Inc. (collectively, Mueller Group) and Cerro Flow Products, LLC.

[3] *See* Petitioner's Letter, ''Seamless Refined Copper Pipe and Tube from Vietnam: Request to Extend Preliminary Results,'' dated November 5, 2020.

[4] *Id.* at 1.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Groundfish Trawl Catcher Processor Economic Data Report (EDR)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on July 23, 2020 (85 FR 44524), during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Groundfish Trawl Catcher Processor Economic Data Report (EDR).

OMB Control Number: 0648–0564.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 30.

Average Hours per Response: Annual Trawl Catcher/Processor Economic Data Report, 22 hours.

Total Annual Burden Hours: 660 hours.

Needs and Uses: The National Marine Fisheries Services (NMFS), Alaska Regional Office, is requesting extension of the currently approved information collection for the Annual Trawl Catcher/Processor Economic Data Report (the EDR).

The EDR collects economic data on the information for the Gulf of Alaska Trawl Groundfish Economic Data Report Program (GOA Trawl EDR Program) and for Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

The GOA Trawl EDR Program evaluates the economic effects of current and potential future fishery management measures for the GOA trawl fisheries. This program provides NMFS and the North Pacific Fishery Management Council (Council) with baseline economic information on affected harvesters, crew, processors, and communities in the GOA.

Amendment 80 primarily allocates several Bering Sea and Aleutian Islands non-pollock trawl groundfish fisheries among fishing sectors, and facilitates the formation of harvesting cooperatives among vessels in the non-American Fisheries Act (non-AFA) Trawl Catcher/Processor Cooperative Program. This program established a limited access privilege program for the non-AFA trawl catcher/processor sector.

Data collected through the EDR includes labor information, revenues received, capital and operational expenses, and other operational or financial data. NMFS and the Council use this to assess the economic effects of Amendment 80 on vessels or entities regulated by the non-AFA Trawl Catcher/Processor Cooperative Program, and impacts of major changes in the groundfish management regime, including allocation of prohibited species catch species and target species to harvesting cooperatives.

The EDR is submitted annually by each person who held an Amendment 80 Quota Share permit or was an owner or leaseholder of an Amendment 80 vessel, or was an owner or leaseholder of a vessel named on a License Limitation Program groundfish license with catcher/processor vessel and trawl gear designations and endorsed for the GOA during a calendar year. The EDR requirements are located at 50 CFR 679.94.

Affected Public: Individuals or households; Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and

entering either the title of the collection or the OMB Control Number 0648–0564.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–25416 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Highly Migratory Species Dealer Reporting Family of Forms

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on July 31, 2020, (85 FR 46070) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Highly Migratory Species (HMS) Dealer Reporting Family of Forms.

OMB Control Number: 0648–0040.

Form Number(s): None.

Type of Request: Regular submission (revision and renewal of a current information collection).

Number of Respondents: 7,957.

Average Hours per Response: 5 minutes each for catch document, statistical document, and re-export certificate; 15 minutes for catch document/statistical document/re-export certificate validation by government official; 120 minutes for authorization of non-governmental catch document/statistical document/re-export certificate validation; 2 minutes for daily Atlantic bluefin tuna landing reports; 3 minutes for daily Atlantic bluefin tuna landing reports from pelagic longline and purse seine vessels; 1 minute for Atlantic bluefin tuna tagging; 15 minutes for biweekly electronic Atlantic bluefin tuna dealer landing reports; 15 minutes for HMS international trade biweekly electronic reports; 15 minutes for weekly electronic HMS dealer landing reports (*e*-dealer); 5 minutes for negative weekly electronic HMS dealer landing reports (*e*-dealer); 15 minutes for voluntary fishing vessel and catch forms; 2 minutes for provision of HMS dealer email address.

Total Annual Burden Hours: 20,260.

Needs and Uses: This collection serves as a family of forms for Atlantic highly migratory species (HMS) dealer reporting, including purchases of HMS from domestic fishermen, and the import, export, and/or re-export of HMS, including federally managed tunas, sharks, and swordfish.

Transactions covered under this collection include purchases of Atlantic HMS from domestic fishermen; and the import/export of all bluefin tuna, frozen bigeye tuna, southern bluefin tuna or swordfish under the HMS International Trade Program, regardless of geographic area of origin. This information is used to monitor the harvest of domestic fisheries, and/or track international trade of internationally managed species. We are currently revising this information collection to implement mandatory electronic, web-based reporting to replace the downloadable hard copy forms currently used for biweekly bluefin dealer reporting and international trade reporting of bluefin tuna, swordfish, and frozen bigeye tuna. No other changes in the reporting program are being implemented at this time, and no significant changes in the number of responses or burden estimates are anticipated aside from removal of postage costs for returning the completed forms by mail.

The domestic dealer reporting covered by this collection includes weekly electronic landing reports and negative reports (*i.e.,* reports of no activity) of Atlantic swordfish, sharks, bigeye tuna, albacore, yellowfin, and skipjack tunas (collectively referred to as BAYS tunas), and electronic biweekly and daily landing reports for bluefin tuna, including tagging of individual fish. Because of the individual bluefin quota (IBQ) management system (RIN 0648–BC09), electronic entry of IBQ-related landing data is required for Atlantic bluefin tuna purchased from Longline and Purse seine category vessels.

International trade tracking programs are required by both the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC) to account for all international trade of covered species. The United States is a member of ICCAT and IATTC and required by ATCA and the Tunas Convention Act (16 U.S.C. 951 *et. seq.,* consecutively) to promulgate regulations as necessary and appropriate to implement ICCAT and IATTC recommendations. These programs require that a statistical document or catch document accompany each export from and import to a member nation, and that a re-export certificate accompany each re-export. The international trade reporting requirements covered by this collection include implementation of catch document, statistical document, and re-export certificate trade tracking programs for bluefin tuna, frozen bigeye tuna, and swordfish. An electronic catch document program for bluefin tuna (EBCD) was recommended by ICCAT and implemented by the United States in 2016 (0648–BF17). United States regulations implementing ICCAT statistical document and catch document programs require statistical documents and catch documents for international transactions of the covered species from all ocean areas, so Pacific imports and exports must also be accompanied by statistical documents and catch documents. Since there are statistical document programs in place under other international conventions (*e.g.,* the Indian Ocean Tuna Commission), a statistical document or catch document from another program may be used to satisfy the statistical document requirement for imports into the United States.

Dealers who internationally trade Southern bluefin tuna are required to participate in a trade tracking program to ensure that imported Atlantic and Pacific bluefin tuna will not be intentionally mislabeled as ''southern bluefin'' to circumvent reporting requirements. This action is authorized under ATCA, which provides for the promulgation of regulations as may be necessary and appropriate to carry out ICCAT recommendations.

In addition to statistical document, catch document, and re-export certificate requirements, this collection includes biweekly reports to complement trade tracking statistical documents by summarizing statistical document data and collecting additional economic information.

Affected Public: Businesses or other for-profit organizations.

Frequency: Daily for bluefin tuna landings reports and tagging, weekly for HMS dealer reports, biweekly for bluefin tuna dealer and international trade reports, and annually for non-governmental catch document/statistical document/re-export certificate

validation and provision of new HMS dealer email address.

Respondent's Obligation: Mandatory.

Legal Authority: Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the National Marine Fisheries Service (NMFS) is responsible for management of the Nation's marine fisheries. NMFS must also promulgate regulations, as necessary and appropriate, to carry out obligations the United States (U.S.) undertakes internationally regarding tuna management through the Atlantic Tunas Convention Act (ATCA, 16 U.S.C. 971 *et seq.*).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and entering either the title of the collection or the OMB Control Number 0648–0040.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–25417 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Dr. Nancy Foster Scholarship Program

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on July 7, 2020, (85 FR 40620) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic & Atmospheric Administration.

Title: Dr. Nancy Foster Scholarship Program.

OMB Control Number: 0648–0432.

Form Number(s): None.

Type of Request: Regular submission [extension of a current information collection].

Number of Respondents: 200.

Average Hours per Response: Application and transcripts: 8 hours; Letters of recommendation: 45 minutes; Biographical sketch and photograph of awardees: 1 hour; Annual progress reports: 4 hours; Pre- and post-evaluations and exit interview: 10 minutes each.

Total Annual Burden Hours: 1932.

Needs and Uses: This is a request for extension of an existing information collection.

NOAA's Office of National Marine Sanctuaries administers the Dr. Nancy Foster Scholarship Program which recognizes outstanding achievement in master's and doctoral degrees in oceanography, marine biology, or maritime archaeology—this can include but is not limited to ocean and/or coastal: Engineering, social science, marine education, marine stewardship, resource management disciplines—and particularly to encourage women and members of minority groups to apply. The scholarship supports independent graduate level research through financial support of graduate degrees in such fields. Gender and minority status are not considered when selecting award recipients. However, special outreach efforts are employed to solicit applications from women and members of minority groups. Scholarships are distributed by disciplines, institutions, and geography, and by degree sought, with selections within distributions based on financial need, the potential for success in a graduate level studies program (academic achievement), and the potential for achieving research and career goals. Data collection in the form of a full application, letters of recommendation, grade point average documents, research outline, a letter of financial need statement, and a declaration statement are all required to apply for the scholarship.

Affected Public: Individuals.

Frequency: Once.

Respondent's Obligation: Voluntary.

Legal Authority: 16 U.S.C. 1445c–1 and 16 U.S.C. 1445c.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and entering either the title of the collection or the OMB Control Number 0648–0432.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–25415 Filed 11–17–20; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Survey To Collect Economic Data From Recreational Anglers Along the Atlantic Coast

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on April 02, 2020, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Survey To Collect Economic Data From Recreational Anglers Along the Atlantic Coast.

OMB Control Number: 0648–0783.

Form Number(s): None.

Type of Request: Regular, revision of currently approved information collection.

Number of Respondents: 442.
Average Hours per Response: 0.23.
Total Annual Burden Hours: 102.10.
Needs and Uses: This request is for a revision to a currently approved information collection. The objective of the original data collection effort under OMB Control Number 0648–0783 was to assess how changes in saltwater recreational fishing regulations affect angler effort, angler welfare, fishing mortality, and future stock levels. That data collection effort focused on anglers who fished for Atlantic cod and haddock off the Atlantic coast from Maine to Massachusetts. Under this revised information collection request, the objective remains the same, but a new survey will be added with the focus on anglers who fish for summer flounder and black sea bass in the North Atlantic coastal states of New York and New Jersey.

Data collected from this survey will improve our ability to understand and predict how changes in management options and regulations may change fishing mortality and the number of trips anglers take for summer flounder and black sea bass. This data will allow fisheries managers to conduct updated and improved analysis of the socio-economic effects of proposed changes in fishing regulations to recreational anglers and to coastal communities. The recreational fishing community and regional fisheries management councils have requested more species-specific socio-economic studies of recreational fishing that can be used in the analysis of fisheries policies. This survey will address that stated need for more species-specific studies. In addition, the survey data will provide the foundation for a Management Strategy Evaluation designed to assess the added economic value to anglers associated with minimizing summer flounder discards. This work will be conducted as part of the Mid-Atlantic Fisheries Management Council's Ecosystem Approach to Fisheries Management process.

The survey population consists of those anglers who fish in saltwater in the North Atlantic coastal states of New York and New Jersey and who possess a license to fish. A sample of anglers will be drawn from both state fishing license frames. The survey will be conducted using both mail and email to contact anglers and invite them to take the survey online. Anglers not responding to the online survey will receive a paper survey in the mail.

Affected Public: Individuals.
Frequency: The NARFS II will be a cross-sectional survey asking anglers to respond once to a single questionnaire.
Respondent's Obligation: Voluntary.
Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and entering either the title of the collection or the OMB Control Number 0648–0783.

Sheleen Dumas,
Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–25418 Filed 11–17–20; 8:45 am]
BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2020–0036]

Privacy Act of 1974; System of Records

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection, hereinto referred to as the Consumer Financial Protection Bureau (Bureau), gives notice of the establishment of a revised Privacy Act System of Records. This revised system will collect information related to the administration of the Bureau's advisory committees, to include applications to serve as members.

DATES: Comments must be received no later than December 18, 2020. The modified system of records will be effective December 28, 2020, unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments, identified by the title and docket number (see above Docket No. CFPB–2020–0036), by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: privacy@cfpb.gov.*
- *Mail/Hand Delivery/Courier:* Tannaz Haddadi, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by mail, hand delivery, or courier.

All submissions must include the agency name and docket number for this notice. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, once the Bureau's headquarters reopens, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552 on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. At that time, you can make an appointment to inspect comments by telephoning (202) 435–9169. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Tannaz Haddadi, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552, (202) 435–7058.

SUPPLEMENTARY INFORMATION: The Bureau revises its Privacy Act System of Records Notice (SORN) ''CFPB.016—CFPB Advisory Boards and Committees Records System'' to be renamed ''CFPB.016 CFPB Advisory Committees Records System.'' As such, references to ''board and committees'' are changed to ''advisory committees'' throughout for accuracy. The Bureau modifies the categories of individuals in the system to include any individuals, including general members of the public, who apply to serve on the Bureau's advisory committees. Additionally, this modification clarifies that individuals may be recommended to serve on the boards or councils, not nominated, as previously noted. The Bureau also modifies the categories of records to: (1) Clarify that citizenship and/or resident status may be included as information collected to determine an individual's eligibility to serve on the advisory committees; and (2) include demographic information, such as gender and race/ethnicity information, to carry out the Bureau's interest in ensuring diversity. Furthermore, the Bureau modifies the policies and practices for the retention and disposal of records to include the approved

general records schedule for maintaining records pertinent to the administration of the advisory committees. In addition, the Bureau makes non-substantive edits to Routine Use 8 to clarify its purpose; the actual disclosure permitted under the Routine Use remains unchanged. Finally, the Bureau is making non-substantive revisions to the SORN to align with the Office of Management and Budget's recommended model in Circular A–108, appendix II.

The report of the revised system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act'' (Dec. 2016),[1] and the Privacy Act of 1974, 5 U.S.C. 552a(r).

SYSTEM NAME AND NUMBER:

CFPB.016—Advisory Committees System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

SYSTEM MANAGER(S):

Consumer Financial Protection Bureau, Chief Operating Officer, 1700 G Street NW, Washington, DC 20552.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 111–203, title X, sections 1011, 1012, 1014, codified at 12 U.S.C.5491, 5492, 5494.

PURPOSE(S) OF THE SYSTEM:

The system collects and maintains information on Bureau advisory committee members, and those that may interact with the Bureau regarding the committees. The records are used for administration of the advisory committees, including the evaluation of potential committee members for eligibility to serve on Bureau committees and the preparation of minutes and reports of Bureau advisory committee meetings, events, or programs. The information will also be used for administrative purposes to ensure quality control, performance, and improving management processes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include any individual who has recommended an individual to be on an advisory committee to the Bureau (Bureau board or council), applies to serve on an advisory committee, is currently serving on a Bureau advisory committee and/or has served on a Bureau advisory committee and is no longer serving. Bureau advisory committee alternatives are also included in this system. Individuals covered by this system also include any individual, including a member of the public, who upon invitation from a Bureau advisory committee, provides advice or comments or otherwise interacts with a Bureau advisory committee.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information maintained on individuals who are applying to be, or are past, present or recommended members of Bureau advisory committees will include: (1) Contact information (*e.g.,* name, business phone number, email address); (2) information relevant to the Bureau's determination of an individual's eligibility for serving on a Bureau advisory committees, including but not limited to (a) that individual's date of birth, place of birth, citizenship and/or resident status, and any prior or pending civil or criminal actions against that individual for the purpose of conducting a background investigation; (b) education, registration in professional societies, work experience, record of performance, publications authored, membership on other boards and committees, professional awards, for purposes of assessing an individual's qualifications for service; (3) financial disclosure information, declaration of desire and eligibility to serve, and lobbyist registrations, for purposes of identifying any potential conflicts of interest that may arise from an individual's service on a Bureau advisory committees; (4) names of professional references and notes and records of conversations with those references; (5) demographic information, such as gender and race/ethnicity; and (6) miscellaneous correspondence relating to the above. Information maintained on experts, consultants, and other members of the public invited to provide advice or comments to a Bureau advisory committee or otherwise interact with a Bureau advisory committee will include contact information (*e.g.,* name, business phone number, email address).

RECORD SOURCE CATEGORIES:

Information in this system is obtained directly from the individual who is the subject of these records, including any individual who has recommended an individual to be on a Bureau advisory committee, has served as a reference for a Bureau board or committee member or applicant, or has been recommended or applied to be on a Bureau board or committee, is currently serving on a Bureau board or council, and/or has served on a Bureau board or council and is no longer serving, as well as board and council alternatives and any individual who upon invitation from a Bureau board or council, provides advice or comments on issues or has otherwise interacted with a Bureau board or council. Information is also collected, as necessary from third parties who provide information used by the Bureau to determine an individual's eligibility for serving on a Bureau board or council.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed, consistent with the Bureau's Disclosure of Records and Information Rules, promulgated at 12 CFR 1070 *et seq.,* to:

(1) Appropriate agencies, entities, and persons when (a) the Bureau suspects or has confirmed that there has been a breach of the system of records; (b) the Bureau has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Bureau (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Bureau's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(2) Another Federal agency or Federal entity, when the Bureau determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

(3) Another Federal or State agency to (a) permit a decision as to access,

[1] Although pursuant to section 1017(a)(4)(E) of the Consumer Financial Protection Act, Public Law 111–203, the Bureau is not required to comply with OMB-issued guidance, it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(4) The Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;

(5) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(6) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the Bureau or Federal Government and who have a need to access the information in the performance of their duties or activities;

(7) The Department of Justice (DOJ) for its use in providing legal advice to the Bureau or in representing the Bureau in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by the Bureau to be relevant and necessary to the advice or proceeding, and such proceeding names as a party in interest:

(a) The Bureau;

(b) Any employee of the Bureau in his or her official capacity;

(c) Any employee of the Bureau in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The United States, where the Bureau determines that litigation is likely to affect the Bureau or any of its components;

(8) To the public in the form of names, affiliations, and other pertinent biographical information of board or committee members that may be included in meeting minutes or other documents made publicly available through the Bureau website or other mechanisms; and

(9) Appropriate agencies, entities, and persons to the extent necessary to obtain information relevant to making a determination of whether an individual is eligible to serve on a CFPB board or committee.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records are maintained in paper and electronic media. Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrievable by a variety of fields including, without limitation, the individual's name, address, employer, or by some combination thereof.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The Bureau maintains the committee meeting records in accordance with National Archive and Records Administration (NARA) General Records Schedules (GRS) 6.2 Federal Advisory Committee Records, item 050 (DAA–GRS–2015–0001–0005). The records are destroyed when superseded, obsolete, no longer needed, or upon termination of the committee, whichever is sooner. The Bureau maintains the applicant's or recommended member's records in accordance with GRS 6.2 Federal Advisory Committee Records, item 060 (DAA–GRS–2015–0001–0006). The records are destroyed when 3 years old, 3 years after submission of report, or 3 years after superseded or obsolete, as appropriate. Longer retention is authorized as required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in this system of records may inquire in writing in accordance with instructions in 12 CFR 1070.50 *et seq.* Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552. Instructions are also provided on the Bureau website: *https://www.consumerfinance.gov/foia-requests/submit-request/.*

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of any record contained in this system of records may inquire in writing in accordance with instructions in 12 CFR 1070.50 *et seq.* Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552. Instructions are also provided on the Bureau website: *https://www.consumerfinance.gov/privacy/amending-and-correcting-records-under-privacy-act/.*

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

83 FR 23435; 78 FR 25428.

Dated: November 12, 2020.

Ren Essene,

Senior Agency Official for Privacy, Bureau of Consumer Financial Protection.

[FR Doc. 2020–25362 Filed 11–17–20; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford; Meeting

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES:

Wednesday, December 9, 2020; 9:00 a.m.–4:30 p.m.

Thursday, December 10, 2020; 9:00 a.m.–4:30 p.m.

ADDRESSES: Online Virtual Meeting. To receive the meeting access information and call-in number, please contact the Federal Coordinator, Gary Younger, at the telephone number or email listed below by five days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Gary Younger, Federal Coordinator, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99354; Phone: (509) 372–0923; or Email: *gary.younger@rl.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Discussion Topics
  - Tri-Party Agreement Agencies' Updates
  - Hanford Advisory Board Committee Reports
  - Board Business

Public Participation: The meeting is open to the public. The EM SSAB,

Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Gary Younger at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or within five business days after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gary Younger. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Gary Younger's office at the address or telephone number listed above. Minutes will also be available at the following website: *http://www.hanford.gov/page.cfm/hab/FullBoardMeetingInformation.*

Signed in Washington, DC, on November 12, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–25409 Filed 11–17–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Number 2020–007, EERE–2014–BT–WAV–0038]

Energy Conservation Program: Extension of Waiver to GE Appliances, a Haier Company From the Department of Energy Consumer Refrigeration Products Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Extension of waiver.

SUMMARY: The U.S. Department of Energy (''DOE'') is granting a waiver extension (Case No. 2020–007) to GE Appliances, a Haier Company (''GEA'') from specified portions of the DOE consumer refrigeration products test procedure for determining the energy consumption of the specified GEA combination cooler refrigeration product basic model. Under this extension, GEA is required to test and rate the specified basic model in accordance with the alternate test procedure specified in the Order.

DATES: The Extension of Waiver is effective on November 18, 2020. The Extension of Waiver will terminate upon the compliance date of any future amendment to the test procedure for consumer refrigeration products located in 10 CFR part 430, subpart B, appendix A that addresses the issues presented in this waiver. At such time, GEA must use the relevant test procedure for the specified basic model of combination cooler refrigeration product for any testing to demonstrate compliance with standards, and any other representations of energy use.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Requests@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(g)), DOE gives notice of the issuance of an Extension of Waiver as set forth below. The Extension of Waiver extends the Decision and Order granted to GEA (then GE Appliances) on February 12, 2015 (80 FR 7851, ''February 2015 Decision and Order'') to include GEA basic model G30W_C–9I–BI_N, as requested by GEA on June 29, 2020.[1] GEA must test and rate the specifically identified G30W_C–9I–BI_N basic model in accordance with the alternate test procedure specified in the February 2015 Decision and Order. GEA's representations concerning the energy consumption of the specified basic models must be based on testing according to the provisions and restrictions in the alternate test procedure set forth in the February 2015 Decision and Order, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same requirements when making representations regarding the energy consumption of these products. (42 U.S.C. 6293(c))

DOE makes decisions on waiver extensions for only those basic models specifically set out in the request, not future models that may be manufactured by the petitioner. GEA may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of consumer refrigeration products. Alternatively, if appropriate, GEA may request that DOE extend the scope of a waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 430.27(g).

Signing Authority

This document of the Department of Energy was signed on November 12, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register.**

Signed in Washington, DC, on November 13, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

Case Number 2020–007

Extension of Waiver

I. Background and Authority

The Energy Policy and Conservation Act, as amended (''EPCA'')[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B[2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain types of consumer products. These products include refrigerators, refrigerator-freezers, freezers. (42 U.S.C. 6292(a)(1)) EPCA also contains provisions that enable the Secretary of

[1] GEA's request is available at *https://www.regulations.gov/document?D=EERE-2014-BT-WAV-0038-0004.*

[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (Oct. 23, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

Energy to classify additional types of consumer products as covered products. (42 U.S.C. 6292(a)(20)) In a final determination of coverage published in the **Federal Register** on July 18, 2016 (the ''July 2016 Final Coverage Determination''), DOE classified miscellaneous refrigeration products (''MREFs'') as covered products under EPCA. 81 FR 46768. MREFs are consumer refrigeration products other than refrigerators, refrigerator-freezers, or freezers, which include coolers and combination cooler refrigeration products. 10 CFR 430.2. Combination cooler refrigeration products (*e.g.,* wine chillers combined with a refrigerator, freezer, or refrigerator-freezer) are the subject of this extension.

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), energy conservation standards (42 U.S.C. 6295), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), and the authority to require information and reports from manufacturers. (42 U.S.C. 6296)

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that product (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results that reflect the energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for refrigerators, refrigerator-freezers, coolers, and combination cooler refrigeration products is contained in 10 CFR part 430, subpart B, appendix A—Uniform Test Method for Measuring the Energy Consumption of Refrigerators, Refrigerator-Freezers, and Miscellaneous Refrigeration Products (''Appendix A'').

Any interested person may submit a petition for waiver from DOE's test procedure requirements. 10 CFR 430.27(a)(1). DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

A petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition, without limiting an extension to products of the same class. 10 CFR 430.27(g). DOE will publish any such extension in the **Federal Register.** *Id.*

II. Request for an Extension of Waiver: Assertions and Determinations

On February 12, 2015, DOE issued a Decision and Order in Case Number RF–042 granting GEA a waiver to test certain consumer refrigerator-freezer basic models subject to the original Decision and Order using an alternate test procedure. 80 FR 7851 (''February 2015 Decision and Order'').[3] GEA stated that its refrigerator-freezers with a dual-compressor design were not properly accounted for in DOE's final test procedure rule published on April 21, 2014 (78 FR 22320) because these basic models demonstrate non-uniform cycling of their compressors, which prevents the verification of two criteria in the Appendix A test procedure—to ensure (a) that the first part of the test comprises a period of stable operation, and (b) that the second part of the test (used to measure the energy use contribution of the defrost cycle(s)) both starts and ends during periods of stable operation. 80 FR 7852.

Based on its review, including of the information provided by GEA, DOE determined that the current test procedure at Appendix A would evaluate the refrigerator-freezer basic models specified in the February 2015 Decision and Order in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data. 80 FR 7852–7853. The February 2015 Decision and Order specifies that GEA must test and rate the subject basic models such that the stability requirements for the first part of the test are adapted to dual-compressor cycling and the period selection and duration for the second part of the test are adapted to dual-compressor cycling and defrosting. *Id.* Additionally, the unit must be run for a stabilization period of at least 24 hours preceding the test at each temperature control setting, and the test measurement frequency requirements made more stringent to a maximum of 1 minute per sample. *Id.*

On June 29, 2020, GEA submitted a petition for waiver and interim waiver for a certain basic model of a combination cooler refrigeration product, which uses the same dual-compressor technology with non-uniform compressor cycling as the residential refrigerator-freezer basic models subject to the February 2015 Decision and Order. Both combination cooler refrigeration products and refrigeration-freezers must be tested according to Appendix A. 10 CFR 430.23(a) and (ff). In its June 29, 2020 petition, GEA suggested the same alternate test procedure as prescribed in the February 2015 Decision and Order be used for the subject basic model. For these reasons, DOE is treating this petition for waiver and interim waiver as a request for an extension under 10 CFR 430.27(g) and that the scope of the waiver, Case Number RF–042, be extended to the GEA cooler-freezer basic model G30W_C–9I–BI_N. DOE is publishing at the end of this document GEA's request for extension of waiver in its entirety.

DOE has reviewed GEA's waiver extension request and determined that the G30W_C–9I–BI_N basic model identified in GEA's request incorporates the same design characteristics as those basic models covered under the waiver in Case Number RF–042 such that the test procedure evaluates that basic model in a manner that is unrepresentative of its actual energy use. The basic model G30W_C–9I–BI_N specified in GEA's request is a combination cooler refrigeration product (a cooler-freezer). As noted, the specified combination cooler refrigeration product is subject to testing according to Appendix A, the Federal test procedure from which GEA was granted a waiver in Case Number RF–042. Moreover, the subject basic model

[3] The basic models subject to the February 2015 Decision and Order are ZIC30***** and ZIK30*****.

uses the same technology as the basic models of refrigerator-freezers subject to the alternate test procedure specified in the February 2015 Decision and Order. DOE has determined that the alternate procedure specified in the February 2015 Decision and Order will allow for the accurate measurement of the energy use of the combination cooler refrigeration product basic model identified by GEA in its waiver extension request.

III. Order

After careful consideration of all the material submitted by GEA in this matter, *it is ordered* that:

(1) GEA must, as of the date of publication of this Extension of Waiver in the **Federal Register,** test and rate the following basic model with the alternate test procedure as set forth in paragraph (2):

Brand	Basic model
GE	G30W_C–9I–BI_N.

(2) The alternate test procedure for the GEA basic model referenced in paragraph (1) of this Order is the test procedure for refrigerators, refrigerator-freezers, and miscellaneous refrigeration products prescribed by DOE at 10 CFR part 430, subpart B, appendix A, with the following modifications:

The energy consumption shall be determined as follows:

$$ET = \left(1440 \times \frac{EP1}{T1}\right) + \sum_{i=1}^{D}\left(EP2_i - \left(EP1 \times \frac{T2_i}{T1}\right)\right) \times \left(\frac{12}{CT_i}\right)$$

Where:

- *ET* is the test cycle energy (kWh/day);
- 1440 = number of minutes in a day;
- *EP*1 is the dual compressor energy expended during the first part of the test. (If at least one compressor cycles, the test period for the first part of the test shall include a whole number of complete primary compressor cycles comprising at least 24 hours of stable operation, unless a defrost occurs prior to completion of 24 hours of stable operation, in which case the first part of the test shall include a whole number of complete primary compressor cycles comprising at least 18 hours of stable operation);
- *T*1 is the length of time for *EP*1 (minutes);
- D is the total number of compartments with distinct defrost systems;
- i is the variable that equals to 1, 2 or more that identifies the compartment with a distinct defrost system;
- $EP2_i$ is the total energy consumed during the second (defrost) part of the test being conducted for compartment i (kWh);
- $T2_i$ is the length of time for the second (defrost) part of the test being conducted for compartment i (minutes);
- 12 = conversion factor to adjust for a 50% run-time of the compressor in hours/day;
- CT_i is the compressor on-time between defrosts for only compartment i. CT_i for compartment i with a long time automatic defrost system is calculated as per 10 CFR part 430, subpart B, appendix A, clause 5.2.1.2. CT_i for compartment i with a variable defrost system is calculated as per 10 CFR part 430 subpart B, appendix A, clause 5.2.1.3 (hours rounded to the nearest tenth of an hour).

Stabilization: The test shall start after a minimum 24 hours stabilization run for each temperature control setting.

Test Period for $EP2_i$, $T2_i$: $EP2_i$ includes precool, defrost, and recovery time for compartment i, as well as sufficient dual compressor cycles to allow $T2_i$ to be at least 24 hours, unless a defrost occurs prior to completion of 24 hours, in which case the second part of the test shall include a whole number of complete primary compressor cycles comprising at least 18 hours. The test period shall start at the end of a regular freezer compressor on-cycle after the previous defrost occurrence (cooler or freezer). The test period also includes the target defrost and following freezer compressor cycles, ending at the end of a freezer compressor on-cycle before the next defrost occurrence (cooler or freezer).

Test Measurement Frequency: Measurements shall be taken at regular intervals not exceeding 1 minute.

(3) *Representations.* GEA may make representations about the energy use of the basic model listed in paragraph (1) of this Order for compliance, marketing, or other purposes only to the extent that the basic model has been tested in accordance with the provisions of paragraph (2) of this Order and such representations fairly disclose the results of such testing.

(4) This Extension of Waiver shall remain in effect according to the provisions of 10 CFR 430.27.

(5) This Extension of Waiver is issued on the condition that the statements, representations, and documents provided by GEA are valid. If GEA makes any modifications to the controls or configurations of the basic model, the waiver will no longer be valid and GEA will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this Extension of Waiver (and/or the underlying Order issued in Case Number RF–042) at any time if it determines the factual basis underlying the petition for extension of waiver (and/or the underlying Order issued in Case Number RF–042) is incorrect, or the results from the alternate test procedure are unrepresentative of a basic model's true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, GEA may request that DOE rescind or modify the Extension of Waiver (and/or the underlying Order issued in Case Number RF–042) if GEA discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

(6) GEA remains obligated to fulfill any applicable requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on November 12, 2020.

Alexander N. Fitzsimmons,

Deputy Assistant Secretary for Energy Efficiency and Renewable Energy.

John T. Schlafer
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Louisville, KY 40225
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June 29, 2020

Via Email (*AS_Waiver_Requests@ee.doe.gov*)

Mr. Daniel Simmons
Assistant Secretary of Energy Efficiency and Renewable Energy
U.S. Department of Energy
Building Technologies Program, Test Procedure Waiver
1000 Independence Avenue SW
Mailstop EE–5B
Washington, DC 20585

Re: Petition for Waiver & Application for Interim Waiver Regarding Test Procedure for Measuring the Energy Consumption of Refrigerators, Refrigerator-Freezers, and Miscellaneous Refrigeration Products

Dear Asst. Sec. Simmons:

GE Appliances, a Haier company (GEA) respectfully submits this Petition for Waiver and Application for Interim Waiver from the Department of Energy (DOE) test procedure for Miscellaneous Refrigeration Products in 10 CFR 430 Subpart B, Appendix A. GEA's request is fully consistent with the previously granted waiver provided to GEA under Case Number RF–042, 80 FR 7851.

GEA requests this waiver and interim waiver for the same reason as its

previous waiver request: The current test procedure for dual compressor models is not applicable to GEA's models that demonstrate non-uniform compressor cycling. GEA requests expedited treatment of this Petition and Application as DOE has considered this exact issue before and approved the petition. This supplemental waiver request is filed only to add new basic models to the existing waiver.

1. About GE Appliances

GEA is a leading US manufacturer of home appliances. GEA offers a full suite of major appliances across seven brands as well as portable appliances. GEA has been a participant in and contributor to the DOE's home appliance energy conservation program since its founding more than 40 years ago. Indeed, GEA supports the goal of the appliance efficiency program: Maximizing energy savings improvements that offer consumers real economic benefits and that do not diminish product performance. GEA devotes substantial resources to the development of new technologies to increase energy efficiency where they are feasible and engineering products to meet the demanding DOE energy efficiency requirements.

2. Basic Models for Which a Waiver Is Requested

This Petition for Waiver and Application for Interim Waiver covers the combination cooler refrigeration product basic model listed below.

Product Class C–9I–BI, Built-in cooler with upright freezer with automatic defrost with an automatic icemaker
G30W_C–9I–BI_N

The basic model will be distributed in commerce under the brand name ''Monogram''.

3. Design Characteristic Constituting Grounds for the Petition

The basic model listed utilizes a dual compressor design. The non-uniform compressor cycling makes direct use of the Appendix A requirements for evaluating temperature stability problematic, if not impossible.

4. Requirements Sought To Be Waived

The current test procedure in Appendix A for Multiple-Compressor Products with Automatic Defrost, 4.2.3.4.2 requires that ''For each compressor system, the compartment temperature averages for the first and last complete compressor cycles that lie completely within the second part of the test must be within 0.5 °F (0.3 °C) of the average compartment temperature measured for the first part of the test.'' The non-uniform compressor cycles of this product prevent consistent application of these requirements. As DOE stated when granting GEA's previous petition, ''DOE has reviewed the alternate test procedure and believes that it will allow for the accurate measurement of the energy use of these products, while alleviating the testing problems associated with GE's implementation of a dual compressor system''. (80 FR 7853). Without a waiver, the basic models referenced above cannot be accurately tested and rated for energy consumption.

5. Manufacturers of All Other Basic Models With Similar Design Characteristics

To GEA's knowledge, the only other models with similar design characteristic are those listed in GEA's previously granted waiver, which is cited above.

6. The Proposed Alternate Test Procedure Has Been Approved by DOE

GEA requests that the alternate test procedure prescribed by DOE in the GEA waiver order at 80 FR 7851–7854 be used to measure the energy efficiency for the basic model referenced above.

The alternate test procedure instructions for this waiver are included in Exhibit A. They are identical to the alternate test procedure approved by DOE in 80 FR 7851–7854.

7. The Application for Interim Waiver Should Be Granted

a. The Petition for Waiver Will Likely Be Successful

This Petition for Waiver is likely to be granted as an identical waiver has already been granted to GEA. The alternate test procedure, previously approved by DOE, is applicable to the basic models' design characteristics and will evaluate the performance of the models in a manner representative of the actual energy consumption.

b. Failure To Provide an Interim Waiver Will Cause Economic Hardship and Competitive Disadvantage

If DOE does not promptly grant an interim waiver, GEA will likely be unable to test and certify this model within a commercially reasonable time. Such delay will prevent effective competition within the marketplace and place GEA at an unfair competitive disadvantage.

8. Notice to Other Manufacturers

Pursuant to 10 CFR 430.27(c), upon publication of a grant of interim waiver, GEA will notify in writing all known manufacturers of domestically marketed basic models of the same product class (as specified in 10 CFR 430.32) and of other product classes known to the petitioner to use the technology or have the characteristic at issue in the waiver. The notice will include a statement that DOE has published the interim waiver and petition for waiver in the **Federal Register** and the date the petition for waiver was published. The notice will also include a statement that DOE will receive and consider timely written comments on the petition for waiver. Within five working days of publication of the grant of interim waiver, GEA will file with DOE a statement certifying the names and addresses of each person to whom a notice of the petition for waiver was sent.

9. Conclusion

GEA respectfully requests that DOE grant this Petition for Waiver and Application for Interim Waiver from the current test procedure for the specified basic models. As DOE has already reviewed and approved an identical request for GEA, GEA requests expedited review and approval of the application for Interim Waiver.

Very truly yours,
/s/
John T. Schlafer

Attachments:
Exhibit A—Alternate Test Procedure
Page 4 Mr. Daniel Simmons
EXHIBIT A: Alternate Test Procedure for Multiple-compressor Products with Automatic Defrost

$$ET = (1440 \text{ x } EP1/T1) + \sum_{i=1}^{D} [(EP2_i - (EP1 \text{ x } T2_i/T1)) \text{ x } (12/CT_i)]$$

Where:

—ET is the test cycle energy (kWh/day);

—1440 = number of minutes in a day

—EP1 is the dual compressor energy expended during the first part of the test (If at least one compressor cycles, the test period for the first part of the test shall include a whole number of complete primary compressor cycles comprising at least 24 hours of stable operation, unless a defrost occurs prior to completion of 24 hours of stable operation, in which case the first part of the test shall include a whole number of complete primary compressor cycles comprising at least 18 hours of stable operation);

—T1 is the length of time for EP1 (minutes);

—D is the total number of compartments with distinct defrost systems;

—i is the variable that can equal to 1, 2 or more that identifies the compartment with distinct defrost system;

—$EP2_i$ is the total energy consumed during the second (defrost) part of the test being conducted for compartment i. (kWh);

—$T2_i$ is the length of time (minutes) for the second (defrost) part of the test being conducted for compartment i.

—12 = conversion factor to adjust for a 50% run-time of the compressor in hours/day

—CT_i is the compressor-on time between defrosts for only compartment i. CT_i for compartment i with long time automatic defrost system is calculated as per 10 CFR part 430, subpart B, Appendix A clause 5.2.1.2. CT_i for compartment i with variable defrost system is calculated as per 10 CFR part 430 subpart B, Appendix A clause 5.2.1.3. (hours rounded to the nearest tenth of an hour).

Stabilization: The test shall start after a minimum 24 hours stabilization run for each temperature control setting.

Test Period for $EP2_i$, $T2_i$: $EP2_i$ includes precool, defrost, and recovery time for compartment i, as well as sufficient dual compressor cycles to allow $T2_i$ to be at least 24 hours, unless a defrost occurs prior to completion of 24 hours, in which case the second part of the test shall include a whole number of complete primary compressor cycles comprising at least 18 hours. The test period shall start at the end of a regular freezer compressor on-cycle after the previous defrost occurrence (refrigerator or freezer). The test period also includes the target defrost and following freezer compressor cycles, ending at the end of a freezer compressor on-cycle before the next defrost occurrence (refrigerator or freezer).

Test Measurement Frequency: Measurements shall be taken at regular intervals not exceeding 1 minute.

[FR Doc. 2020–25435 Filed 11–17–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: Office of Legacy Management, U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for a new collection under the provisions of the Paperwork Reduction Act of 1995. The information collection would create an evergreen webform for meeting room requests from stakeholders for the Office of Legacy Management (LM) Interpretive Centers.

DATES: Comments regarding this proposed information collection must be received on or before December 17, 2020. If you anticipate difficulty in submitting comments within that period, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–4718.

ADDRESSES: Written comments may be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503; and to: Elizabeth Tran, U.S. Department of Energy, Office of Legacy Management, 11035 Dover Street, Suite 600, Westminster, CO 80021, or by email at *elizabeth.tran@lm.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to U.S. Department of Energy Office of Legacy Management, c/o Elizabeth Tran, 11035 Dover Street, Suite 600, Westminster, CO 80021, (720) 377–9674, or by email at *elizabeth.tran@lm.doe.gov.*

SUPPLEMENTARY INFORMATION: 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 of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains: (1) *OMB No.:* New; (2) *Information Collection Request Title:* Office of Legacy Management Interpretive Centers' Meeting Room Webforms; (3) *Type of Request:* New; (4) *Purpose:* To create an evergreen webform for meeting room requests from stakeholders for the Office of Legacy Management (LM) Interpretive Centers; (5) *Annual Estimated Number of Respondents:* 234; (6) *Annual Estimated Number of Total Responses:* 234; (7) *Annual Estimated Number of Burden Hours:* 234; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $14,941.16.

Statutory Authority

Division A, Title III, and 132 STAT. 2913 of Public Law 115–244: Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019.

- Act Enacted FY 2019 appropriations for DOE Office of Legacy Management's mission of Long-Term Stewardship which includes outreach activities required to operate the interpretative centers.

Division C, Title III, and 133 STAT. 2675 of Public Law 116–94: Further Consolidated Appropriations Act, 2020.

- Act Enacted FY 2020 appropriations for DOE Office of Legacy Management's mission of Long-Term Stewardship which includes outreach activities required to operate the interpretative centers.

Signing Authority

This document of the Department of Energy was signed on November 12, 2020, by Carmelo Melendez, Director, Office of Legacy Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on November 13, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–25406 Filed 11–17–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Basic Energy Sciences Advisory Committee; Meeting

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Basic Energy Sciences

Advisory Committee (BESAC). Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register.**

DATES: Wednesday, December 9, 2020; 10:30 a.m. to 4:30 p.m.

ADDRESSES: This meeting is open to the public. This meeting will be held digitally via Zoom. Information to participate can be found on the website closer to the meeting date at: *https://science.osti.gov/bes/besac/Meetings.*

FOR FURTHER INFORMATION CONTACT: Katie Runkles; Office of Basic Energy Sciences; U.S. Department of Energy; Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585; Telephone: (301) 903–6529; email: *Katie.runkles@science.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of this Board is to make recommendation to DOE–SC with respect to the basic energy sciences research program.

Tentative Agenda:

- Call to Order, Introductions, Review of the Agenda
- News from the Office of Science
- News from the Office of Basic Energy Sciences
- International Benchmarking Study Update
- Chemical Sciences, Geosciences and Biosciences Division COV Report Update
- Public Comments
- Adjourn

Breaks Taken as Appropriate

Public Participation: The meeting is open to the public. A webcast of this meeting will be available. Please check the website below for updates and information on how to view the meeting. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Katie Runkles at: *katie.runkles@science.doe.gov.* You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available within 30 days on the Basic Energy Sciences website at: *https://science.osti.gov/bes/besac.*

Signed in Washington, DC, on November 12, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–25408 Filed 11–17–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Consultation Opportunities

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of consultation opportunities.

SUMMARY: The U.S. Department of Energy (DOE) announces the opportunity to consult with DOE on matters pertaining to the assessment and collection of a fee for providing long-term management and storage of elemental mercury under the Mercury Export Ban Act of 2008, as amended (MEBA). In accordance with MEBA, this consultation opportunity is intended for persons who are likely to deliver elemental mercury to a DOE-designated facility for long-term management and storage and other interested persons (Persons). DOE will conduct multiple, internet-based webinar (WebEx) meetings to facilitate consultation with Persons seeking to provide input on the assessment and collection of a fee for providing long-term management and storage of elemental mercury.

DATES: The internet-based WebEx consultation will be conducted on the following dates: WebEx interaction for additional consultations on December 1, 2020, 9:00 a.m.–12:00 p.m. (EST), and December 8, 2020, 1:00 p.m.–4:00 p.m. (EST). Written comments and information will also be accepted on or before December 15, 2020.

ADDRESSES: Consultation input will be accepted during the WebEx meetings. Persons who wish to provide consultation input verbally may sign up to speak before each meeting by submitting a request to *mercury.mgt.fee@em.doe.gov.* Other persons who wish to provide verbal input may be afforded the opportunity to do so as time allows. Please direct written consultation input comments to:

(1) *Regulations.gov:* Submit comments at *http://www.regulations.gov.* Follow the instructions for submitting comments.

(2) *Email:* David Haught at *mercury.mgt.fee@em.doe.gov.* Please submit comments in Microsoft Word™ or PDF file format and avoid the use of encryption.

(3) *Mail:* David Haught, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585.

For further information on the WebEx meetings, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: David Haught, U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal (EM–4.22), 1000 Independence Avenue SW, Washington, DC 20585, Telephone: (202) 586–5000, Email: *mercury.mgt.fee@em.doe.gov.*

SUPPLEMENTARY INFORMATION: Join the internet-based WebEx consultations as follows:

December 1, 2020

Website (copy and paste the following link into a web browser): https://doe.webex.com/doe/j.php?MTID=m6efbda9c4dcc9ee60af3ec1e8c6749c3.

Meeting number (access code): 199 306 1256 and meeting password: FHsBbVEd473.

Join by telephone: +1–415–527–5035 US Toll or +1–929–251–9612 USA Toll 2.

Global call-in numbers: Join from a video system or application, dial *1993061256@doe.webex.com* or dial 207.182.190.20 and enter your meeting number.

December 8, 2020

Website (Copy and paste the following link into a web browser): https://doe.webex.com/doe/j.php?MTID=m2f50ad361c6431dd4cc2d633b44a0e79.

Meeting number (access code): 199 543 4933 and meeting password: dJGjM7m3w34.

Join by telephone: +1–415–527–5035 US Toll or +1–929–251–9612 USA Toll 2.

Global call-in numbers: Join from a video system or application, dial *1995434933@doe.webex.com* or dial 207.182.190.20 and enter your meeting number.

Procedure for Submitting Prepared Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the

public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing. Audio from the meeting will be recorded for the purpose of preparing a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting.

The public meeting will be conducted in an informal, conference style. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics.

DOE will permit, as time permits, other participants to comment briefly on any general statements. At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other relevant matters. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of each public meeting will be included in the Administrative Record accompanying the Notice of Proposed Rulemaking.

Background

In accordance with MEBA section 5(b)(1), 42 U.S.C. 6939f(b)(1), this consultation opportunity is intended for persons who are likely to deliver elemental mercury to a designated facility for long-term management and storage and other interested persons (Persons). DOE will conduct multiple, internet-based webinar (WebEx) meetings to facilitate consultation with Persons seeking to provide input on the assessment and collection of a fee for providing long-term management and storage of elemental mercury. During the initial WebEx meeting, DOE will present information on topics DOE considers relevant and applicable to establishing a fee including: (1) Potential Alternative Locations for Management and Storage of Elemental Mercury (*e.g.,* existing DOE-owned facilities, facilities owned by other Federal Government agencies, or commercially-owned facilities), (2) Fee that Covers Costs for Long-Term Management and Storage (*e.g.,* storage, transportation, treatment, and disposal), (3) Inputs and Assumptions that Affect Cost (*e.g.,* quantities of elemental mercury and storage durations), (4) Cost Elements (*e.g.,* Operations and Maintenance and other costs) and MEBA Recoverable/Non-Recoverable Costs, and, (5) Fee Determination method (*e.g.,* calculation/formula/model). DOE will also present information on the process it will follow to prepare and issue a fee for long-term management and storage of elemental mercury. DOE invites consultation input from Persons on the information presented and on topics Persons consider relevant and applicable to establishing a fee.

Submission of Comments

DOE invites all interested parties to submit in writing by the date specified previously in the **DATES** section of this document, comments and information on matters addressed in this document and on other matters relevant to DOE's development of the fee for the long term management and storage of elemental mercury. After the close of the comment period, DOE will consider the public comments received in the development of the fee.

Submitting comments via http://www.regulations.gov. The *http://www.regulations.gov* web page requires you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies Office staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No telefacsimiles (''faxes'') will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email to *mercury.mgt.fee@em.doe.gov.* DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Signing Authority

This document of the Department of Energy was signed on November 12, 2020, by Mark A. Gilbertson, Associate Deputy Assistant Secretary for Office of Regulatory and Policy Affairs, Office of Environmental Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed at Washington, DC, on November 13, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–25422 Filed 11–17–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Fusion Energy Sciences Advisory Committee (FESAC); Meeting

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Fusion Energy Sciences Advisory Committee (FESAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, December 7, 2020; 11:00 a.m. to 5:30 p.m. EDT, Tuesday, December 8, 2020; 11:00 a.m. to 5:30 p.m. EDT, Thursday, December 10, 2020; 11:00 a.m. to 5:30 p.m. EDT.

ADDRESSES: This meeting will be held digitally via Zoom. Instructions for Zoom, as well as any updates to meeting times or meeting agenda, can be found on the FESAC meeting website at: *https://science.osti.gov/fes/fesac/Meetings.*

FOR FURTHER INFORMATION CONTACT: Dr. Samuel J. Barish, Acting Designated Federal Officer, Office of Fusion Energy Sciences (FES); U.S. Department of Energy; Office of Science; 1000 Independence Avenue SW, Washington, DC 20585; Telephone: (301) 903–2917, Email address: *sam.barish@science.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complex scientific and technical issues that arise in the development and implementation of the fusion energy sciences program.

Tentative Agenda:

- FES Perspective
- Report of the FESAC Subcommittee to Develop a Long-Range Plan for the FES Program
- Public Comment
- Adjourn

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, you should contact Dr. Barish at *sam.barish@science.doe.gov* (Email). Reasonable provision will be made to include the scheduled oral statements during the Public Comment time on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for on the Fusion Energy Sciences Advisory Committee website—*http://science.energy.gov/fes/fesac/.*

Signed in Washington, DC, on November 12, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–25410 Filed 11–17–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: Office of Legacy Management, U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for a new collection under the provisions of the Paperwork Reduction Act of 1995. The information collection would create an evergreen webform for Field Trip and Outreach Program requests from stakeholders for the Office of Legacy Management (LM) Interpretive Centers.

DATES: Comments regarding this proposed information collection must be received on or before December 18, 2020. If you anticipate difficulty in submitting comments within that period, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–4718.

ADDRESSES: Written comments may be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503; and to: Elizabeth Tran, U.S. Department of Energy Office of Legacy Management, 11035 Dover Street, Suite 600, Westminster, CO 80021, or by email at *elizabeth.tran@lm.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to U.S. Department of Energy, Office of Legacy Management, c/o Elizabeth Tran, 11035 Dover Street, Suite 600, Westminster, CO 80021, (720) 377–9674, or by email at *elizabeth.tran@lm.doe.gov.*

SUPPLEMENTARY INFORMATION: 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 of the proposed collection of information, including the validity of the

methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. This information collection request contains: (1) *OMB No.:* New; (2) *Information Collection Request Title:* Office of Legacy Management Interpretive Centers' Field Trip and Outreach Program Webforms; (3) *Type of Request:* New; (4) *Purpose:* To create an evergreen webform for Field Trip and Outreach Program requests from stakeholders for the Office of Legacy Management (LM) Interpretive Centers; (5) *Annual Estimated Number of Respondents:* 391; (6) *Annual Estimated Number of Total Responses:* 391; (7) *Annual Estimated Number of Burden Hours:* 471; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $30,742.71.

Statutory Authority

Division A, Title III, and 132 STAT. 2913 of Public Law 115–244: Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019.

- Act Enacted FY 2019 appropriations for DOE Office of Legacy Management's mission of Long-Term Stewardship which includes outreach activities required to operate the interpretative centers.

Division C, Title III, and 133 STAT. 2675 of Public Law 116–94: Further Consolidated Appropriations Act, 2020.

- Act Enacted FY 2020 appropriations for DOE Office of Legacy Management's mission of Long-Term Stewardship which includes outreach activities required to operate the interpretative centers.

Signing Authority

This document of the Department of Energy was signed on November 12, 2020, by Carmelo Melendez, Director, Office of Legacy Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register.**

Signed in Washington, DC, on November 13, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–25405 Filed 11–17–20; 8:45 am]

BILLING CODE 6450–01–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: ER19–158–005; ER10–1547–013; ER10–1975–026; ER10–2421–003; ER10–2585–008; ER10–2613–008; ER10–2616–017; ER10–2617–010; ER10–2619–011; ER10–2669–012; ER10–2670–012; ER10–2674–014; ER10–2677–014; ER11–2457–003; ER11–3857–015; ER11–3867–015; ER11–4266–016; ER11–4400–014; ER12–1769–006; ER12–192–015; ER12–2250–004; ER12–2251–004; ER12–2252–005; ER12–2253–004; ER12–75–007; ER13–2475–012; ER14–1569–010; ER14–2245–004; ER14–883–011; ER15–1596–010; ER15–1598–007; ER15–1599–010; ER15–1600–006; ER15–1602–006; ER15–1605–006; ER15–1607–006; ER15–1608–006; ER17–1906–003; ER19–102–003; ER19–2803–002; ER19–2806–002; ER19–2807–002; ER19–2809–002; ER19–2810–002; ER19–2811–002.

Applicants: Ambit Northeast, LLC, ANP Bellingham Energy Company, LLC, ANP Blackstone Energy Company, LLC, Calumet Energy Team, LLC, Casco Bay Energy Company, LLC, Cincinnati Bell Energy, LLC, Connecticut Gas & Electric, Inc., Dynegy Commercial Asset Management, LLC, Dynegy Dicks Creek, LLC, Dynegy Energy Services (East), LLC, Dynegy Energy Services, LLC, Dynegy Fayette II, LLC, Dynegy Hanging Rock II, LLC, Dynegy Kendall Energy, LLC, Dynegy Marketing and Trade, LLC, Dynegy Miami Fort, LLC, Dynegy Power Marketing, LLC, Dynegy Washington II, LLC, Dynegy Zimmer, LLC, Energy Rewards, LLC, Energy Services Providers, Inc., Everyday Energy, LLC, Everyday Energy NJ, LLC, Hopewell Power Generation, LLC, Illinois Power Marketing Company, Kincaid Generation, L.L.C., Lake Road Generating Company, LLC, Liberty Electric Power, LLC, Luminant Energy Company LLC, Massachusetts Gas & Electric, Inc., MASSPOWER, Milford Power Company, LLC, North Jersey Energy Associates, A Limited Partnership, Ontelaunee Power Operating Company, LLC, Pleasants Energy, LLC, Public Power & Utility of Maryland, LLC, Public Power & Utility of NY, Inc, Public Power, LLC, Public Power (PA), LLC, Richland-Stryker Generation LLC, Sithe/Independence Power Partners, L.P., TriEagle Energy, LP, Viridian Energy, LLC, Viridian Energy NY, LLC, Viridian Energy PA, LLC.

Description: Supplement to June 30, 2020 Triennial Market Power Update for the Northeast Region of the Vistra MBR Sellers.

Filed Date: 11/5/20.

Accession Number: 20201105–5183.

Comments Due: 5 p.m. ET 11/16/20.

Docket Numbers: ER19–2529–004.

Applicants: Black Hills Wyoming, LLC.

Description: Compliance filing: Compliance to Submit MBR Revisions and Wygen I Settlement PPA to be effective 10/15/2020.

Filed Date: 11/12/20.

Accession Number: 20201112–5232.

Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER20–1783–002.

Applicants: NextEra Energy Transmission MidAtlantic, PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance to Revisions-Tariff for NextEra Energy Transmission MidAtlantic Ind. to be effective 10/29/2020.

Filed Date: 11/12/20.

Accession Number: 20201112–5264.

Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER20–1784–001.

Applicants: PJM Interconnection, L.L.C., NextEra Energy Transmission MidAtlantic.

Description: Compliance filing: Compliance to Revisions-CTOA for NextEra Energy Transmission MidAtlantic Indiana to be effective 10/29/2020.

Filed Date: 11/12/20.

Accession Number: 20201112–5269.

Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER20–2563–001.

Applicants: Ohio Power Company, AEP Ohio Transmission Company, Inc., American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: Compliance filing: AEPSC submits Compliance Filing re: ER20–2563 to be effective 9/29/2020.

Filed Date: 11/12/20.

Accession Number: 20201112–5271.

Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER20–2734–001.

Applicants: Alabama Power Company.

Description: Tariff Amendment: Southern-FPL-Gulf Settlement

Agreement Deficiency Response Filing to be effective 7/3/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5009.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER20–2735–001.
Applicants: Georgia Power Company.
Description: Tariff Amendment: Southern-FPL-Gulf Settlement Agreement Deficiency Response Filing to be effective 7/3/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5010.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER20–2736–001.
Applicants: Mississippi Power Company.
Description: Tariff Amendment: Southern-FPL-Gulf Settlement Agreement Deficiency Response Filing to be effective 7/3/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5011.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER20–2819–001.
Applicants: Pleinmont Solar 1, LLC.
Description: Compliance filing: Revised Rate Schedule under Docket ER20–2819 to be effective 10/1/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5012.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER20–2989–001.
Applicants: Alabama Power Company.
Description: Tariff Amendment: Amendment to Central Alabama IA Amendment Filing to be effective 8/31/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5013.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–131–001.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Amendment: Errata Filing to the Balancing Accounts Update 2021 (Wholesale TRBA) to be effective 1/1/2021.
Filed Date: 11/12/20.
Accession Number: 20201112–5223.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–226–001.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: PJM submits an Errata in ER21–226–000 re: T154 ISA No. 2004 to be effective N/A.
Filed Date: 11/12/20.
Accession Number: 20201112–5008.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–296–001.
Applicants: Florida Power & Light Company.
Description: Tariff Amendment: FPL Amendment to Revisions to FPL–TECO Rate Schedule No. 23 to be effective 10/22/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5184.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–373–000.
Applicants: Lily Solar Lessee, LLC.
Description: § 205(d) Rate Filing: Notice of Change in Status and Revised Seller Category—Lily Solar Lessee, LLC to be effective 9/23/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5001.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–374–000.
Applicants: Lily Solar LLC.
Description: § 205(d) Rate Filing: Notice of Change in Status and Revised Seller Category—Lily Solar LLC to be effective 9/23/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5003.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–375–000.
Applicants: 83WI 8me, LLC.
Description: § 205(d) Rate Filing: Notice of Change in Status and Revised Seller Category—83WI 8me to be effective 9/23/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5004.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–376–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: PowerSouth A&R NITSA Amendment Filing (Remove Slocomb DP) to be effective 10/12/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5005.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–377–000.
Applicants: Georgia Power Company.
Description: Initial rate filing: SR DeSoto Affected System Construction Agreement (GPAS 016) Filing to be effective 10/16/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5007.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–378–000.
Applicants: Mississippi Power Company.
Description: Compliance filing: Gulf States TFA Order No. 864 Compliance Filing to be effective 1/27/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5014.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–379–000.
Applicants: GE Oleander LLC.
Description: Tariff Cancellation: Notice of Cancellation of Market-Based Rate Tariff to be effective 11/13/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5078.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–380–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1148R29 American Electric Power NITSA and NOA to be effective 11/1/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5108.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–381–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: Special market rules for generators serving the NYC steam distribution system to be effective 1/12/2021.
Filed Date: 11/12/20.
Accession Number: 20201112–5117.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–382–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1976R9 FreeState Electric Cooperative, Inc. NITSA and NOA to be effective 2/1/2021.
Filed Date: 11/12/20.
Accession Number: 20201112–5118.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–383–000.
Applicants: Midcontinent Independent System Operator, Inc, American Transmission Company LLC.
Description: § 205(d) Rate Filing: 2020–11–12_SA 3581 ATC-Muscoda CFA to be effective 1/12/2021.
Filed Date: 11/12/20.
Accession Number: 20201112–5119.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–384–000.
Applicants: Upper Missouri G. & T. Electric Cooperation.
Description: § 205(d) Rate Filing: Initial Rate Schedule Change to be effective 11/15/2019.
Filed Date: 11/12/20.
Accession Number: 20201112–5123.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–385–000.
Applicants: Upper Missouri G. & T. Electric Cooperation.
Description: Initial rate filing: Formula Rate Filing to be effective 11/15/2019.
Filed Date: 11/12/20.
Accession Number: 20201112–5125.
Comments Due: 5 p.m. ET 12/3/20.
Docket Numbers: ER21–386–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1977R14 Nemaha-Marshall Electric Cooperative NITSA and NOA to be effective 2/1/2021.
Filed Date: 11/12/20.
Accession Number: 20201112–5127.
Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER21–387–000.
Applicants: The Empire District Electric Company.
Description: § 205(d) Rate Filing: Notice of Non-Material Change in Status to be effective 11/13/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5143.
Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER21–388–000.
Applicants: Odell Wind Farm, LLC.
Description: § 205(d) Rate Filing: Notice of Non-Material Change in Status to be effective 11/13/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5144.
Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER21–389–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–11–12_SA 3177 Coyote Ridge Wind-NSP 1st Rev GIA (J432) to be effective 10/30/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5145.
Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER21–390–000.
Applicants: Algonquin Energy Services Inc.
Description: § 205(d) Rate Filing: Notice of Non Material Changes & MBR Revisions—Algonquin Energy Services to be effective 11/13/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5147.
Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER21–391–000.
Applicants: Deerfield Wind Energy, LLC.
Description: § 205(d) Rate Filing: Notice of Non Material Changes and MBR Tariff Revisions—Deerfield Wind Energy to be effective 11/13/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5148.
Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER21–392–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Modify Information Required in Detailed Project Proposals to be effective 1/12/2021.
Filed Date: 11/12/20.
Accession Number: 20201112–5163.
Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER21–393–000.
Applicants: PacifiCorp.
Description: Tariff Cancellation: Termination of 3 Phases Renewables (OR D.A.) to be effective 12/31/2020.
Filed Date: 11/12/20.
Accession Number: 20201112–5186.
Comments Due: 5 p.m. ET 12/3/20.

Docket Numbers: ER21–394–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: Market rules applicable to energy storage resources that are ICAP suppliers to be effective 3/1/2021.
Filed Date: 11/12/20.
Accession Number: 20201112–5207.
Comments Due: 5 p.m. ET 12/3/20.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH21–3–000.
Applicants: Valener Inc.
Description: Valener Inc. submits FERC 65–B Waiver Notification.
Filed Date: 11/6/20.
Accession Number: 20201106–5334.
Comments Due: 5 p.m. ET 11/27/20.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 12, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25442 Filed 11–17–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN13–15–000]

BP America Inc., BP Corporation North America Inc., BP America Production Company, and BP Energy Company; Updated Notice of Designation of Commission Staff as Non-Decisional

With respect to orders issued by the Commission in the above-captioned docket, with the exceptions noted below, the staff of the Office of Enforcement are designated as non-decisional in deliberations by the Commission in this docket. Accordingly, pursuant to 18 CFR 385.2202 (2020), they will not serve as advisors to the Commission or take part in the Commission's review of any offer of settlement. Likewise, as non-decisional staff, pursuant to 18 CFR 385.2201 (2020), they are prohibited from communicating with advisory staff concerning any deliberations in this docket.

Exceptions to this designation as non-decisional are:

Jeffrey Phillips
Grace Kwon
Phil Haxel
Sebastian Krynski
Carol Clayton
Laura Vallance

Dated: November 12, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25439 Filed 11–17–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD21–5–000]

Impact of Electric Vehicles on the Transmission System and Wholesale Electricity Markets

Notice Cancelling Roundtable Discussion

As announced in a notice issued in this proceeding on October 30, 2020, *Notice of Roundtable Discussion,* a roundtable discussion on electric vehicles was originally scheduled for December 3, 2020. Take notice that this event is cancelled. This notice is issued and published in accordance with 18 CFR 2.1 (2020).

Dated: November 12, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25443 Filed 11–17–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–369–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization; Wapello Solar LLC

This is a supplemental notice in the above-referenced proceeding of Wapello Solar LLC's application for market-based rate authority, with an accompanying rate tariff, noting that

such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 2, 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 may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: November 12, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25437 Filed 11–17–20; 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: RP21–205–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement—BP—11/10/2020 to be effective 11/10/2020.

Filed Date: 11/9/20.

Accession Number: 20201109–5070.

Comments Due: 5 p.m. ET 11/23/20.

Docket Numbers: RP21–206–000.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Compliance filing Annual Operational Flow Order Report 2020.

Filed Date: 11/10/20.

Accession Number: 20201110–5045.

Comments Due: 5 p.m. ET 11/23/20.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 12, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25436 Filed 11–17–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC21–6–000]

Commission Information Collection Activities (FERC–725s); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on a renewal of currently approved information collection, FERC–725S (Emergency Preparedness and Operations (EOP) Reliability Standards).

DATES: Comments on the collection of information are due January 19, 2021.

ADDRESSES: You may submit comments (identified by Docket No. IC21–6–000) by one of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov.*
- *U.S. Postal Service Mail:* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.
- Effective 7/1/2020, delivery of filings other than by eFiling or the U.S. Postal Service should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725S, Emergency Preparedness and Operations (EOP) Reliability Standards.

OMB Control No.: 1902–0270.

Type of Request: Three-year approval of the FERC–725S information collection requirements with no changes to the current reporting requirements.

Abstract: The Electricity Modernization Act of 2005, which is Title XII of the Energy Policy Act of 2005 (EPAct 2005), added a new section 215 to the Federal Power Act (FPA).[1] FPA section 215 requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.

Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight or by the Commission independently. In 2006, the Commission certified North American Electric Reliability Corporation (NERC) as the ERO pursuant to section 215 of the FPA. FERC–725S consists of Emergency Preparedness and Operations (EOP) Reliability Standards, EOP–004–4 (Event Reporting), EOP–005–3 (System Restoration from Blackstart Resources), EOP–006–3 (System Restoration Coordination), and EOP–008–2 (Loss of Control Center Functionality), EOP–010–1 (Geomagnetic Disturbance Operations), and EOP–011–1 (Emergency Operations). Reliability standards EOP–004–4, EOP–005–3, EOP–006–3 and EOP–008–2, EOP–010–1, and EOP–011–1, EOP Reliability Standards will enhance reliability by:

(1) Providing accurate reporting of events to NERC's event analysis group to analyze the impact on the reliability of the bulk electric system (Reliability Standard EOP–004–4).

(2) delineating the roles and responsibilities of entities that support system restoration from blackstart resources which generate power without the support of the bulk electric system (Reliability Standard EOP–005–3).

(3) clarifying the procedures and coordination requirements for reliability coordinator personnel to execute system restoration processes (Reliability Standard EOP–006–3).

(4) refining the required elements of an operating plan used to continue reliable operations of the bulk electric system in the event that primary control center functionality is lost (Reliability Standard EOP–008–2).

(5) address the effects of operating Emergencies by ensuring each Transmission Operator and Balancing Authority has developed Operating Plan(s) to mitigate operating Emergencies, and that those plans are coordinated within a Reliability Coordinator Area (EOP–010–1).

(6) streamlines the requirements for Emergency operations of the Bulk Electric System. Attachment 1, which is incorporated into Requirements R2 and R6, provides the process and descriptions of the levels used by the Reliability Coordinator when communicating the condition of a Balancing Authority that is experiencing an Energy Emergency (EOP–011–1).

Type of Respondents: Public utilities subject to the FPA.

Estimate of Annual Burden[2] *and cost*[3]: The Commission estimates there will be no changes in the annual public reporting burden for the FERC–735S, as follows:

FERC–725S, MODIFICATIONS DUE TO FINAL RULE IN DOCKET NO. XX–XX–XXX

Reliability standard and associated requirement	Number of respondents[4] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)	Total annual burden & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
EOP–010–1						
	181	1	181	20 hrs.; $1,660	3,620 hrs.; $300,460	$1,660
EOP–011–1						
	12	1	12	1,500 hrs.; $124,500	18,000 hrs.; $1,494,000	124,500
EOP–004–4,EOP–005–3,EOP–006–3,EOP–008–2						
	280	1	280	250.58 hrs.; $20,798	70,162.4 hrs.; $5,234,440 ..	$20,798
Total EOP	473	.....	.....	.....	91,782 hrs.; $7,028,900	.....

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) 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.

Dated: November 12, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–25438 Filed 11–17–20; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 824*o*. The approved Reliability Standards are available on the Commission's eLibrary document retrieval system on the NERC website, *www.nerc.com*.

[2] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[3] Commission staff estimates that the industry's skill set and cost (for wages and benefits) for FERC–725S are approximately the same as the Commission's average cost. The FERC 2020 average salary plus benefits for one FERC full-time equivalent (FTE) is $172,329/year (or $83.00/hour).

[4] The number of respondents is based on NERC compliance registration information as of October 2, 2020.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activity: Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of proposed collection; comment request.

SUMMARY: This notice announces the intention of the U.S. Equal Employment Opportunity Commission (EEOC) to request a three-year approval, under the Paperwork Reduction Act of 1995 (PRA), of a revision to the current Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery that the Office of Management and Budget (OMB) previously approved. This collection is part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery.

DATES: Written comments on this notice must be submitted on or before January 19, 2021.

ADDRESSES: You may submit comments using one of the following three methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions on the website for submitting comments.

Mail: Comments may be submitted by mail to Bernadette B. Wilson, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE, Washington, DC 20507.

Fax: Comments totaling six or fewer pages can be sent by facsimile (''fax'') machine to (202) 663–4114 (This is not a toll-free number.) Receipt of fax transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (800) 669–6820 (TTY). (These are not toll-free telephone numbers.)

Instructions: All comments received must include the agency name and docket number. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. However, the EEOC reserves the right to refrain from posting libelous or otherwise inappropriate comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; that contain hate speech directed at race, color, sex, national origin, age, religion, disability, or genetic information; or that promote or endorse services or products.

Although copies of comments received are usually also available for review at the Commission's library, given the EEOC's current 100% telework status due to the Coronavirus Disease 2019 (COVID–19) public health emergency, the Commission's library is closed until further notice. Once the Commission's library is re-opened, copies of comments received in response to the proposed rule will be made available for viewing by appointment only at 131 M Street NE, Suite 4NW08R, Washington, DC 20507, between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: For Office of Field Programs: Michelle Crew, *michelle.crew@eeoc.gov,* (216) 306–1130. For Office of Federal Operations: Patricia St. Clair, *patricia.stclair@eeoc.gov,* (202) 663–4922.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The proposed information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the government's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study. 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 the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, course materials, course instructor, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are the only way to collect information; there are no alternative existing sources;
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does 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. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be

eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Pursuant to the PRA and OMB regulation 5 CFR 1320.8(d)(1), the EEOC solicits public comment on its intent to seek a three-year approval of this revised collection: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the EEOC's functions, including whether the information will have practical utility; (2) Evaluate the accuracy of the EEOC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

In addition to clearance hours for the previously approved customer feedback forms, the EEOC is also requesting an additional 39,716 clearance hours. Most of these requested hours—39,116—are for a randomly-generated, pop-up form that will solicit feedback from a sample of visitors to the EEOC website on the contents and performance of the web pages. The 39,116 hour burden estimate is based on the number of web page views in a year. The remaining 600 hours represent a reserve to cover any additional feedback forms that may be developed over the next three years for new trainings offered by the EEOC. The EEOC anticipates any new potential feedback forms will be similar in length and content to existing feedback forms. The EEOC plans to seek clearance for the additional hours so the EEOC can use the existing clearance number if the need arises for additional training and feedback forms.

Type of survey	Respondent	Number of respondents	Number of responses/ respondent	Participation time	Response burden (in hours)
Questionnaire—FEPA Training Conference Feedback.	State and local government employees.	550	1	2 minutes per response	18
Questionnaire—Technical Assistance Program Feedback.	Private employers, state and local government employees.	4,500	1	2 minutes per response	150
Questionnaire—EXCEL Customer Feedback.	Private employers, state and local government employees.	250	1	10 minutes per response	42
Questionnaire—Respectful Workplace Training Feedback.	Private employers, state and local government employees.	15,900	2 (survey delivered twice to same respondents).	10 minutes per response	5,300
Questionnaire—Federal Course Evaluation Form.	Participants in federal courses and in customer specific trainings.	9,180	1	2 minutes per response	306
Future Training Assessments.	Training Center Attendees.	7,200	1	5 minutes per response	600
EEOC website feedback forms.	Individuals or Households	1,173,472	1	2 minutes per response	39,116

Overview of Information Collection

OMB Number: 3046–0048.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals and households; businesses and organizations; State, Local or Tribal Governments.

Average Expected Annual Number of Activities: 6 known, up to 2 more anticipated.

Respondents: 1,211,052.

Annual Responses: 1,226,952.

Frequency of Response: Twice per respondent for one activity, and once for all other activities.

Average Minutes per Response: 2.2.

Burden Hours: 45,532.

For the Commission.

Janet Dhillon,

Chair.

[FR Doc. 2020–25425 Filed 11–17–20; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of 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(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than December 3, 2020.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *William Chris Anderson, Marquette, Nebraska; Richard Scott Anderson, Dallas, Texas; and James Curtis Anderson, Portland, Oregon;* all individually, and as members of the Anderson Family Group, a group acting

in concert, to retain the voting shares of Firstand Company, and thereby indirectly retain the voting shares of First State Bank, both of Hordville, Nebraska.

Board of Governors of the Federal Reserve System, November 13, 2020.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2020–25433 Filed 11–17–20; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of 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(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 18, 2020.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Mid Bancshares Inc., Mattoon, Illinois;* to acquire voting shares of LINCO Bancshares, Inc., and thereby indirectly acquire voting shares of Providence Bank, both of Columbia, Missouri.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Texas Heritage Bancshares, Inc., Hondo, Texas;* to acquire voting shares of Medina Community Bancshares, Inc., and thereby indirectly acquire voting shares of Community National Bank, both of Hondo, Texas.

Board of Governors of the Federal Reserve System, November 13, 2020.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2020–25434 Filed 11–17–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2019–0015, Docket Number NIOSH–153–E]

Skin Notation Profiles for Chlorodiphenyl (42% Chlorine) (CAS: 53469–21–9), Cyclohexanol (CAS: 108–93–0), Cyclohexanone (CAS: 108–94–1), Cyclonite (CAS: 121–82–4), and Diethylenetriamine (CAS: 111–40–0)

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: NIOSH announces the availability of *Skin Notation Profiles for Chlorodiphenyl (42% chlorine) (CAS: 53469–21–9), Cyclohexanol (CAS: 108–93–0), Cyclohexanone (CAS: 108–94–1), Cyclonite (CAS: 121–82–4), and Diethylenetriamine (CAS: 111–40–0).*

DATES: The final documents were published on November 2, 2020 on the CDC website.

ADDRESSES: The documents may be obtained at the following links:

Chlorodiphenyl (42% chlorine) (CAS: 53469–21–9): *https://www.cdc.gov/niosh/docs/2021-100/;*

Cyclohexanol (CAS: 108–93–0): *https://www.cdc.gov/niosh/docs/2021-101/;*

Cyclohexanone (CAS: 108–94–1): *https://www.cdc.gov/niosh/docs/2021-103/;*

Cyclonite (CAS: 121–82–4): *https://www.cdc.gov/niosh/docs/2021-104/;*

Diethylenetriamine (CAS: 111–40–0): *https://www.cdc.gov/niosh/docs/2021-102/;*

FOR FURTHER INFORMATION CONTACT: Naomi Hudson (*mail to: iuz8@cdc.gov*), National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1090 Tusculum Ave., MS C–15, Cincinnati, OH 45226. Phone (513) 533–8388 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On March 15, 2019, NIOSH published a request for public review in the **Federal Register** [**Federal Register** Number 2019–04794] [84 FR 9524] on the draft versions of the documents skin notion profiles:

Beta-Chloroprene (CAS: 126–99–8)

Cyclohexanol (CAS: 108–93–0)

Cyclohexanone (CAS: 108–94–1)

Cyclonite (CAS: 121–82–4)

Dioxane (CAS: 123–91–1)

Diacetyl/2,3-Pentanedione (CAS: 431–03–8; 600–14–6)

Diethylenetriamine (CAS: 111–40–0)

Chlorodiphenyl (42% chlorine) (CAS: 53469–21–9)

Chlorodiphenyl (54% chlorine) (CAS: 11097–69–1)

Toluene diisocyanates (CAS: 584–84–9; 91–08–7; 26471–62–5)

Five of these documents have been finalized and published: Chlorodiphenyl (42% chlorine) (CAS: 53469–21–9), Cyclohexanol (CAS: 108–93–0), Cyclohexanone (CAS: 108–94–1), Cyclonite (CAS: 121–82–4), and Diethylenetriamine (CAS: 111–40–0). All comments received were carefully reviewed and addressed, where appropriate. In response to comments received, revisions were made to clarify the data used by NIOSH in its support of the development of the skin notation assignments for these chemicals. NIOSH Skin Notation Profiles, Group E Responses to Peer Review and Public Comments can be found in the Supporting Documents section on *www.regulations.gov* for this docket. Comments for the draft documents on Beta-chloroprene (CAS: 126–99–8), Dioxane (CAS: 123–91–1), Diacetyl/2,3-Pentanedione (CAS: 431–03–8/600–14–6), Cholorodiphenyl (54% chlorine) (CAS: 110097–69–1) and Toluene diisocyanates (CAS: 584–84–9; 91–08–7; 26471–62–5) are still being considered by NIOSH.

Authority: PHS Act, 42 U.S.C. 241(a)(1).

John J. Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2020–25300 Filed 11–17–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Product-Specific Guidance for Tiotropium Bromide; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a draft guidance for industry, entitled ''Draft Guidance for Tiotropium Bromide.'' The draft guidance, when finalized, will provide product-specific recommendations on, among other things, the information and data needed to demonstrate bioequivalence (BE) to support abbreviated new drug applications (ANDAs) for tiotropium bromide inhalation spray.

DATES: Submit either electronic or written comments on the draft guidance by January 19, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2007–D–0369 for ''Draft Guidance for Tiotropium Bromide.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' will be publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

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

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Mara Miller, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4709C, Silver Spring, MD 20993–0002, 301–796–0683.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific guidances available to the public on FDA's website at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs.*

As described in that guidance, FDA adopted this process to develop and disseminate product-specific guidances and to provide a meaningful opportunity for the public to consider and comment on the guidances. This notice announces the availability of a draft guidance on a generic tiotropium bromide inhalation spray.

FDA initially approved new drug application 21936 for SPIRIVA RESPIMAT (tiotropium bromide inhalation spray) in September 2015. We are now issuing draft guidance for industry on BE recommendations for generic tiotropium bromide inhalation spray (''Draft Guidance for Tiotropium Bromide'').

In October 2012, Boehringer Ingelheim, manufacturer of the reference listed drug SPIRIVA HANDIHALER, new drug application 21395, submitted a citizen petition requesting, among other things, that FDA adopt and apply certain requirements in its review of any

proposed generic and follow-on versions of SPIRIVA HANDIHALER or any other Boehringer Ingelheim oral inhalation product containing the active ingredient tiotropium bromide under section 505(j) and (b)(2), respectively, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j) and (b)(2)) (Docket No. FDA–2012–P–1072). FDA is reviewing the issues raised in the petition and will consider any comments on the draft guidance entitled ''Draft Guidance for Tiotropium Bromide'' before responding to Boehringer's citizen petition.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the information and data to demonstrate BE to support ANDAs for tiotropium bromide inhalation spray. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: November 12, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–25412 Filed 11–17–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–5843]

Pharmacia and Upjohn Co., et al.; Withdrawal of Approval of 19 New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** on January 8, 2020. The document announced the withdrawal of approval of 19 new drug applications (NDAs) from multiple applicants, withdrawn as of February 7, 2020. The document indicated that FDA was withdrawing approval of NDA 202342, Esomeprazole Strontium Delayed-Release Capsules, Equivalent to (EQ) 20 milligrams (mg) base and EQ 40 mg base, after receiving a withdrawal request from R2 Pharma, LLC, 11550 North Meridian St., Suite 290, Carmel, IN 46032–5505 (R2 Pharma). Because of clerical errors in the Agency's processing of communications regarding this application, FDA has determined that NDA 202342 remains approved. Accordingly, FDA's approval of NDA 202342 remains in effect. There are no changes with respect to the other 18 NDA withdrawals announced in the January 8, 2020 **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Kimberly Lehrfeld, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6226, Silver Spring, MD 20993–0002, 301–796–3137, *Kimberly.Lehrfeld@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of Wednesday, January 8, 2020 (85 FR 915), appearing on page 916 in FR Doc. 2020–00075, the following correction is made:

On page 916, in the table, the entry for NDA 202342 is removed.

Dated: November 12, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–25413 Filed 11–17–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1429]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act and Associated Fees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by December 18, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0776. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10 a.m.–12 p.m., 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act and Associated Fees

OMB Control Number 0910–0776—Revision

This information collection helps to support implementation of section 503B of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and the Drug Quality and Security Act (DQSA).

A. Registration

Under section 503B of the FD&C Act (21 U.S.C. 353b), added by DQSA, a facility that compounds drugs may elect to register with FDA as an outsourcing facility. Drug products compounded in a registered outsourcing facility can qualify for exemptions from the FDA-approval requirements in section 505 of the FD&C Act (21 U.S.C. 355), the requirement to label products with adequate directions for use under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)), and the requirements for drug supply chain security in section 582 of the FD&C Act (21 U.S.C. 360eee–1) if the requirements in section 503B of the FD&C Act have been met.

After the initial registration, under section 503B(b) of the FD&C Act, a facility that elects to register with FDA as an outsourcing facility must also do so annually between October 1 and

December 31. Upon registration, the outsourcing facility must provide specific information including its name, place of business, a unique facility identifier, and a point of contact's email address and phone number. The outsourcing facility must also indicate: (1) Whether it intends to compound, within the next calendar year, a drug that appears on our drug shortage list in effect under section 506E of the FD&C Act (21 U.S.C. 356e); and (2) whether it compounds from bulk drug substances and, if so, whether it compounds sterile or non-sterile drugs from bulk drug substances.

Outsourcing facilities that elect to register submit registration information for each facility electronically using a Structured Product Labeling (SPL) format in accordance with the FDA guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Drug Listing (May 2009).'' The guidance is available from our website at: *https://www.fda.gov/media/71146/download.* Respondents unable to use electronic means to register may submit a written request for a waiver from the requirement.

B. Registration Fees

Upon registration, and in accordance with section 503B and 744K of the FD&C Act, facilities are assessed an establishment fee and receive an annual invoice from FDA with instructions for remitting payment. Until payment is made for each given fiscal year (FY), an establishment is not considered to be registered as an outsourcing facility.

In accordance with section 744K of the FD&C Act (21 U.S.C. 379j–62), certain outsourcing facilities may qualify for a small business reduction in the amount of the annual establishment fee. To qualify for this reduction, an outsourcing facility must submit a written request to FDA certifying that the entity meets the requirements for the reduction. For each FY a firm seeks to qualify as a small business and receive the fee reduction, it must submit to FDA a written request by April 30 of the preceding FY. For example, an outsourcing facility must have submitted a written request for the small business reduction by April 30, 2020, to qualify for a reduction in the fiscal year 2021 annual establishment fee.

Section 744K also requires an outsourcing facility to submit written requests for a small business reduction in a specified format: Form FDA 3908 entitled ''Outsourcing Facilities for Human Drug Compounding: Small Business Establishment Fee Reduction Request.'' Form FDA 3908 is available from our website at: *https://www.fda.gov/media/90740/download.* In response to the submission of a small business reduction request, FDA will send a notification letter of its decision and recommends that applicants retain the notification.

C. Reinspection Fees

In accordance with section 503B of the FD&C Act, outsourcing facilities are subject to inspection and, in accordance with section 744K, subject to reinspection fees. A reinspection fee will be incurred for each reinspection and is intended to reimburse FDA when a particular outsourcing facility requires reinspection because of noncompliance identified during a previous inspection. After a reinspection is conducted, FDA will send an invoice to the email address indicated in the facility's registration file. The invoice contains instructions for remitting the reinspection fee.

D. Dispute Resolution

Agency regulations under § 10.75 (21 CFR 10.75) provide for internal Agency review of decisions. Accordingly, an outsourcing facility may request reconsideration of an FDA decision related to the fee provisions of section 744K of the FD&C Act. Requests for reconsideration should include the facility's rationale for its position that FDA's decision was in error and include any additional information that is relevant to the outsourcing facility's assertion. The denial of a request for reconsideration may be appealed by submitting a written request to FDA, consistent with § 10.75.

To assist respondents with the information collection provisions, we have developed Agency guidance. The guidance document entitled ''Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the FD&C Act (November 2014)'' describes the process for electronic submission of establishment registration information for outsourcing facilities and provides information on how to obtain a waiver from submitting registration information electronically. The guidance document entitled ''Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the FD&C Act (November 2014)'' describes the types and amounts of fees that outsourcing facilities must pay, the adjustments to fees required by law, how outsourcing facilities can submit payment to FDA, the consequences of outsourcing facilities' failure to pay fees, and how an outsourcing facility can qualify as a small business to obtain a reduction in fees. The guidance documents were issued consistent with our good guidance practice regulations (21 CFR 10.115), which provide for public comment at any time, and are available on our website at *https://www.fda.gov/media/87570/download* and *https://www.fda.gov/media/136683/download*, respectively.

In the **Federal Register** of August 20, 2020 (85 FR 51442), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Electronic Submission of Registration Information Using the SPL Format.	70	1	70	4.5	315
Waiver Request From Electronic Submission of Registration Information.	1	1	1	1	1
Subtotal.					
Remission of Annual Establishment Fee From FDA Invoice.	70	1	70	0.5 (30 minutes)	35
Request for Small Business Reduction (Form FDA 3908).	15	1	15	25	375
Reinspection Fees	14	1	14	0.5 (30 minutes)	7

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Reconsideration Requests	3	1	1	1	3
Appeal of Reconsideration Denials	1	1	1	1	1
Total			101		421

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We estimate 70 respondents annually will submit outsourcing facility registrations using the SPL format as specified in Agency guidance and assume each registration will require 4.5 hours to prepare and complete. We expect no more than one waiver request from the electronic submission requirement annually and assume each waiver request will require 1 hour to prepare and submit. We estimate each of the 70 registrants will remit annual establishment fees and assume this task requires 30 minutes per respondent. We estimate that 15 of those respondents will request a small business reduction in the amount of the annual establishment fee using Form FDA 3908.

We estimate 14 outsourcing facilities annually will remit reinspection fees and assume this will require 30 minutes. We also estimate that we will receive three requests for reconsideration and one appeal of a denial of a request for reconsideration and assume 1 hour per respondent for this activity.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Retention of small business designation notification letter.	15	1	15	0.5 (30 minutes)	7.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We estimate that annually 15 outsourcing facilities will maintain a copy of their small business designation letter and that maintaining each record will require 0.5 hour (30 minutes).

These estimates reflect a slight increase in the number of annual registrations, but a decrease in reinspection fee submissions.

Dated: November 12, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–25411 Filed 11–17–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2020–D–1137 and FDA–2020–D–1138]

Guidance Documents Related to Coronavirus Disease 2019; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of FDA guidance documents related to the Coronavirus Disease 2019 (COVID–19) public health emergency (PHE). This notice of availability (NOA) is pursuant to the process that FDA announced, in the **Federal Register** of March 25, 2020, for making available to the public COVID–19-related guidances. The guidances identified in this notice address issues related to the COVID–19 PHE and have been issued in accordance with the process announced in the March 25, 2020, notice. The guidances have been implemented without prior comment, but they remain subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidances is published in the **Federal Register** on November 18, 2020.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the name of the guidance

document that the comments address and the docket number for the guidance (see table 1). Received comments will be placed in the docket(s) and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

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

Submit written requests for single copies of these guidances to the address noted in table 1. Send two self-addressed adhesive labels to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidances.

FOR FURTHER INFORMATION CONTACT: Stephen Ripley, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911, or Erica Takai, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5456, Silver Spring, MD 20993–0002, 301–796–6353.

SUPPLEMENTARY INFORMATION:

I. Background

On January 31, 2020, as a result of confirmed cases of COVID–19, and after consultation with public health officials as necessary, Alex M. Azar II, Secretary of Health and Human Services, pursuant to the authority under section 319 of the Public Health Service Act (42 U.S.C. 247d) (PHS Act), determined that a PHE exists and has existed since January 27, 2020, nationwide.[1] On March 13, 2020, President Donald J. Trump declared that the COVID–19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020.[2]

In the **Federal Register** of March 25, 2020 (85 FR 16949) (the March 25, 2020, notice) (available at *https://www.govinfo.gov/content/pkg/FR-2020-03-25/pdf/2020-06222.pdf*), FDA announced procedures for making available FDA guidances related to the COVID–19 PHE. These procedures, which operate within FDA's established good guidance practices regulations, are intended to allow FDA to rapidly disseminate Agency recommendations and policies related to COVID–19 to industry, FDA staff, and other stakeholders. The March 25, 2020, notice stated that due to the need to act quickly and efficiently to respond to the COVID–19 PHE, FDA believes that prior public participation will not be feasible or appropriate before FDA implements COVID–19-related guidances. Therefore, FDA will issue COVID–19-related guidances for immediate implementation without prior public comment (see section 701(h)(1)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(h)(1)(C)) and § 10.115(g)(2)). The guidances are available on FDA's web pages entitled ''COVID–19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders'' (available at: *https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders*) and ''Search for FDA Guidance Documents'' (available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents*).

The March 25, 2020, notice further stated that, in general, rather than publishing a separate NOA for each COVID–19-related guidance, FDA intends to publish periodically a consolidated NOA announcing the availability of certain COVID–19-related guidances that FDA issued during the relevant period, as included in table 1. This notice announces COVID–19-related guidances that are posted on FDA's website.

II. Availability of COVID–19-Related Guidance Documents

Pursuant to the process described in the March 25, 2020, notice, FDA is announcing the availability of the following COVID–19-related guidances:

TABLE 1—GUIDANCES RELATED TO THE COVID–19 PUBLIC HEALTH EMERGENCY

Docket No.	Center	Title of guidance	Contact information to request single copies
FDA–2020–D–1137	CBER	Emergency Use Authorization for Vaccines to Prevent COVID–19 (October 2020).	Office of Communication, Outreach and Development, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; 1–800–835–4709 or 240–402–8010; email *ocod@fda.hhs.gov.*

[1] Secretary of Health and Human Services Alex M. Azar, II, Determination that a Public Health Emergency Exists (originally issued on January 31, 2020, and subsequently renewed), available at *https://www.phe.gov/emergency/news/healthactions/phe/Pages/default.aspx.*

[2] 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/.*

TABLE 1—GUIDANCES RELATED TO THE COVID–19 PUBLIC HEALTH EMERGENCY—Continued

Docket No.	Center	Title of guidance	Contact information to request single copies
FDA–2020–D–1138	CDRH	Enforcement Policy for Modifications to FDA Cleared Molecular Influenza and RSV Tests During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (October 2020).	*CDRH—Guidance@fda.hhs.gov/.* Please include the document number 20046 and complete title of the guidance in the request.

Although these guidances have been implemented immediately without prior comment, FDA will consider all comments received and revise the guidances as appropriate (see § 10.115(g)(3)).

These guidances are being issued consistent with FDA's good guidance practices regulation (§ 10.115). The guidances represent the current thinking of FDA. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

A. CBER Guidance

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information (listed in table 2). Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidances have been approved by OMB as listed in the following table:

TABLE 2—CBER GUIDANCE AND COLLECTIONS

COVID–19 guidance title	CFR cite referenced in COVID–19 guidance	Another guidance title referenced in COVID–19 guidance	OMB control No(s).
Emergency Use Authorization for Vaccines to Prevent COVID–19 (October 2020).	21 CFR 314.420		0910–0001
	21 CFR part 312		0910–0014
	21 CFR parts 210, 211, and 610		0910–0139
	21 CFR part 600		0910–0308
	21 CFR part 601		0910–0338
		Emergency Use Authorization of Medical Products and Related Authorities.	0910–0595

B. CDRH Guidance

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information (listed in table 3). Therefore, clearance by OMB under the PRA is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations have been approved by OMB as listed in the table below.

TABLE 3—CDRH GUIDANCE AND COLLECTIONS

COVID–19 guidance title	CFR cite referenced in COVID–19 guidance	Another guidance title referenced in COVID–19 guidance	OMB control No(s).
Enforcement Policy for Modifications to FDA—Cleared Molecular Influenza and RSV Tests During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (October 2020).	800, 801, and 809	N/A	0910–0485
	807, subpart E		0910–0120
	820		0910–0073

IV. Electronic Access

Persons with access to the internet may obtain COVID–19-related guidances at:

- FDA web page entitled ''COVID–19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders,'' available at *https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders;*
- FDA web page entitled ''Search for FDA Guidance Documents'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents;* or
- *https://www.regulations.gov.*

Dated: November 13, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–25399 Filed 11–17–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0575]

Agency Information Collection Activities; Proposed Collection; Comment Request; Expedited Programs for Serious Conditions—Drugs and Biologics

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection pertaining to ''Expedited Programs for Serious Conditions—Drugs and Biologics.''

DATES: Submit either electronic or written comments on the collection of information by January 19, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 19, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 19, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2013–D–0575 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on Expedited Programs for Serious Conditions—Drugs and Biologics.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Expedited Programs for Serious Conditions—Drugs and Biologics

OMB Control Number 0910–0765—Extension

This information collection supports Agency regulations and associated guidance pertaining to expedited programs for serious conditions. The purpose of our regulations in 21 CFR part 312, subpart E is to establish procedures designed to expedite the development, evaluation, and marketing of new therapies intended to treat persons with life-threatening and severely debilitating illnesses, especially where no satisfactory alternative therapy exists. While the statutory standards of safety and effectiveness apply to all drugs, the many kinds of drugs that are subject to them, and the wide range of uses for those drugs, demand flexibility in applying the standards.

We have developed the guidance for industry entitled ''Expedited Programs for Serious Conditions—Drugs and Biologics'' as a single resource for information on FDA's policies and procedures related to the following expedited programs for serious conditions: (1) Fast track designation, (2) breakthrough therapy designation, (3) accelerated approval, and (4) priority review designation. The guidance describes threshold criteria generally applicable to expedited programs, including what is meant by serious condition, unmet medical need, and available therapy. The guidance addresses the applicability of expedited programs to rare diseases, clarification on available therapy, and additional detail on possible flexibility in manufacturing and product quality. It also clarifies the qualifying criteria for breakthrough therapy designation and provides examples of surrogate endpoints and intermediate clinical endpoints used to support accelerated approval.

A sponsor or applicant who seeks fast track designation is required to submit to us a request showing that the drug product: (1) Is intended for a serious or life-threatening condition and (2) has the potential to address an unmet medical need. We expect that most information to support a designation request will have been gathered under existing requirements for preparing an investigational new drug (IND), new drug application (NDA), or biologics license application (BLA). If such information has already been submitted to us, the information may be summarized in the fast track designation request. A designation request should include, where applicable, additional information not specified elsewhere by statute or regulation. For example, additional information may be needed to show that a product has the potential to address an unmet medical need where an approved therapy exists for the serious or life-threatening condition to be treated. Such information may include clinical data, published reports, summaries of data and reports, and a list of references. The amount of information and discussion in a designation request need not be voluminous, but it should be sufficient to permit a reviewer to assess whether the criteria for fast track designation have been met.

After we make a fast track designation, a sponsor or applicant may submit a premeeting package that may include additional information supporting a request to participate in certain fast track programs. The premeeting package serves as background information for the meeting and should support the intended objectives of the meeting. As with the request for fast track designation, we expect that most sponsors or applicants will have gathered such information to meet existing requirements for preparing an IND, an NDA, or a BLA. These may include descriptions of clinical safety and efficacy trials not conducted under an IND (*e.g.,* foreign studies) and information to support a request for accelerated approval. If such information has already been submitted to us, the information may be summarized in the premeeting package.

We also developed the guidance document entitled ''Expedited Programs for Regenerative Medicine Therapies for Serious Conditions.'' The guidance provides sponsors engaged in the development of regenerative medicine therapies for serious or life-threatening diseases or conditions with FDA's recommendations on the expedited development and review of these therapies. The guidance describes the expedited programs available to sponsors of regenerative medicine therapies for serious or life-threatening diseases or conditions, including those products designated as regenerative advanced therapies (which FDA refers to as ''regenerative medicine advanced therapy'' (RMAT) designation). The guidance also describes considerations in the clinical development of regenerative medicine therapies and opportunities for sponsors of regenerative medicine therapies to interact with the Center of Biologics Evaluation and Research review staff.

The guidance documents are available on our website at *www.fda.gov/regulatory-information/search-fda-guidance-documents* and were issued consistent with our good guidance practice regulations in 21 CFR 10.115, which provide for public comment at any time.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Priority Review Designation Requests	70	1.44	101	30	3,030
Breakthrough Therapy Designation Requests	119	1.31	156	70	10,920
Fast Track Designation Requests	205	1.273	261	60	15,660
RMAT Designation Requests	33	1.15	38	60	2,280
Fast Track Premeeting Packages	224	1.75	392	100	39,200
Total			948		71,090

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have increased our burden estimates by 389 responses and 35,325 hours. As reflected in table 1, we estimate that 70 respondents will submit 101 requests for priority review designation annually. We assume an average of 30 hours is needed to prepare such a request.

We estimate that 119 respondents will submit 156 requests for breakthrough

designation annually and assume that an average of 70 hours is needed to prepare such a request.

We estimate 205 respondents will submit 261 requests for fast track designation requests annually and assume that an average of 60 hours is needed to prepare such a request.

Of the requests for fast track designation made per year, we granted approximately 224 requests from 392 respondents, and for each of these granted requests, a premeeting package was submitted. We therefore assume an average burden of 100 hours per respondent for preparing a premeeting package.

Finally, we estimate 33 respondents will submit 38 requests for RMAT designation and assume that an average of 60 hours is needed to prepare such a request.

Dated: November 12, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–25414 Filed 11–17–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Heritable Disorders in Newborns and Children

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Public Health Service Act and the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Heritable Disorders in Newborns and Children (ACHDNC or Committee) has scheduled a public meeting to be held on Tuesday, December 1, 2020. Information about the ACHDNC and the agenda for this meeting can be found on the ACHDNC website at *https://www.hrsa.gov/advisory-committees/heritable-disorders/index.html.*

DATES: Tuesday, December 1, 2020, 2020, from 10:00 a.m. to 2:45 p.m. ET.

ADDRESSES: This meeting will be held via webinar. While this meeting is open to the public, advance registration is required. Please register online at *https://www.cvent.com/d/17qsxn* by the deadline of 12:00 p.m. ET on Monday, November 30, 2020. Instructions on how to access the meeting via webcast will be provided upon registration.

FOR FURTHER INFORMATION CONTACT: Alaina Harris, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18W66, Rockville, Maryland 20857; 301–443–0721; or *ACHDNC@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACHDNC provides advice and recommendations to the Secretary of HHS (Secretary) on the development of newborn screening activities, technologies, policies, guidelines, and programs for effectively reducing morbidity and mortality in newborns and children having, or at risk for, heritable disorders. The ACHDNC reviews and reports regularly on newborn and childhood screening practices, recommends improvements in the national newborn and childhood screening programs, and fulfills requirements stated in the authorizing legislation. In addition, ACHDNC's recommendations regarding inclusion of additional conditions for screening, following adoption by the Secretary, are evidence-informed preventive health services provided for in the comprehensive guidelines supported by HRSA through the Recommended Uniform Screening Panel (RUSP) pursuant to section 2713 of the Public Health Service Act (42 U.S.C. 300gg–13). Under this provision, non-grandfathered group health plans and health insurance issuers offering group or individual health insurance are required to provide insurance coverage without cost-sharing (a co-payment, co-insurance, or deductible) for preventive services for plan years (*i.e.,* policy years) beginning on or after the date that is one year from the Secretary's adoption of the condition for screening.

During the meeting, ACHDNC will hear from experts in the fields of public health, medicine, heritable disorders, rare disorders, and newborn screening. Agenda items include the following:

(1) Presentations on the decision making criteria and matrix used to evaluate conditions nominated to the RUSP;

(2) review of newborn screening implementation for the following RUSP conditions: Severe combined immunodeficiency (SCID), critical congenital heart disease (CCHD), Pompe disease, mucopolysaccharidosis type I (MPS I), X-linked adrenoleukodystrophy (XALD); and

(3) overview of the Review of Newborn Screening for Spinal Muscular Atrophy (SMA) report and vote on whether to submit this review to the Secretary.

In July 2018, SMA was added to the RUSP, and the Secretary requested a follow-up report that assesses the impact of implementing screening for SMA. Following the overview of the Review of Newborn Screening for Spinal Muscular Atrophy report, the Committee is expected to vote on whether to submit this review to the Secretary or whether further action is warranted prior to its submission.

The agenda for this meeting does not include any plans for recommending a condition for inclusion in the RUSP. Agenda items are subject to changes as priorities dictate. Information about the ACHDNC, including a roster of members and past meeting summaries, are also available on the ACHDNC website.

Members of the public also will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to provide a written statement or make oral comments to the ACHDNC must be submitted via the registration website by Friday, November 27, 2020, by 10:00 a.m. ET.

Individuals who need special assistance or another reasonable accommodation should notify Alaina Harris at the address and phone number listed above at least 10 business days prior to the meeting.

This meeting is being announced less than 15 days prior to the scheduled meeting due to an administrative issue that has now been resolved.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–25461 Filed 11–17–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Treatment and Prevention of Neuropathic Pain With P2Y14 Antagonists

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive, sublicensable patent license to Saint Louis University, (''SLU''), a non-profit university located in Missouri, in its rights to the inventions and patents listed in the

SUPPLEMENTARY INFORMATION section of this notice.

DATES: Only written comments and/or applications for a license which are received by the NIDDK Technology Advancement Office December 3, 2020 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated exclusive patent license should be directed to: Betty B. Tong, Ph.D., Senior Licensing and Patenting Manager, NIDDK Technology Advancement Office, Telephone: 301–451–7836; Email: *tongb@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The following and all continuing U.S. and foreign patents/patent applications thereof are the intellectual properties to be licensed under the prospective agreement to SLU:

1. U.S. Provisional Patent Application No. 62/877,385, filed July 23, 2019, entitled ''Treatment And Prevention Of Neuropathic Pain With P2Y14 Antagonists'' (HHS Ref. No. E–144–2019–0–US–01)
2. U.S. Provisional Patent Application No. 63/013,792, filed April 22, 2020, entitled ''Treatment And Prevention Of Neuropathic Pain With P2Y14 Antagonists'' (HHS Ref. No. E–144–2019–1–US–01)
3. U.S. Patent Application 16/936,951, filed July 23, 2020, entitled ''Treatment And Prevention Of Neuropathic Pain With P2Y14 Antagonists'' [HHS Ref. No. E–144–2019–2–US–01]

The patent rights in these inventions have been assigned to the Government of the United States of America, and Saint Louis University. The prospective patent license will be for the purpose of consolidating the patent rights to SLU, co-owner of said rights, for commercial development and marketing. Consolidation of these co-owned rights is intended to expedite development of the invention, consistent with the goals of the Bayh-Dole Act codified as 35 U.S.C. 200–212. The prospective patent license will be worldwide, exclusive, and may be limited to those fields of use commensurate in scope with the patent rights. It will be sublicensable, and any sublicenses granted by SLU will be subject to the provisions of 37 CFR part 401 and 404.

The invention pertains to methods for treating and preventing neuropathic pain by using selective antagonists for the P2Y14 receptor, a purinergic G protein-coupled receptor that is activated by extracellular UDP-glucose and related nucleotides. The technology provides a method of treating neuropathic pain by administering a P2Y14 receptor antagonist comprising a naphthalene or phenyl-triazolyl scaffold, potentially increase efficacy of treatments for neuropathic pain, and minimize risk of addiction.

This notice is made pursuant to 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive patent license will include terms for the sharing of royalty income with NIDDK from commercial sublicenses of the patent rights and may be granted unless within fifteen (15) days from the date of this published notice the NIDDK receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available. License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: November 12, 2020.

Charles D. Niebylski,

Director, Technology Advancement Office, National Institute of Diabetes and Digestive and Kidney Diseases.

[FR Doc. 2020–25455 Filed 11–17–20; 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; Member Conflict: Population Science and Epidemiology–B.

Date: December 8, 2020.

Time: 10:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gianina Ramona Dumitrescu, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4193–C, Bethesda, MD 28092, *dumitrescurg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Electronic Nicotine Delivery Systems—Basic Mechanisms of Health Effects.

Date: December 17–18, 2020.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, (240) 498–7546, *diramig@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 13, 2020.

Patricia B. Hansberger,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–25454 Filed 11–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket Number USCG–2020–0667]

Offshore Patrol Cutter Acquisition Program; Preparation of a Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement

AGENCY: Coast Guard, DHS.

ACTION: Notice of intent to prepare a Programmatic Environmental Impact Statement (PEIS)/Overseas Environmental Impact Statement (POEIS); request for comments.

SUMMARY: The United States (U.S.) Coast Guard (Coast Guard), as the lead agency, announces its intent to prepare a Programmatic Environmental Impact Statement (PEIS)/Overseas Environmental Impact Statement (POEIS) for the Offshore Patrol Cutter (OPC) Program's Stage 2 acquisition of up to 21 OPCs and operation of up to 25 total OPCs. This acquisition is a continuation of the OPC Program of Record for acquiring up to 25 total cutters. Notice is hereby given that the public scoping process has begun for the preparation of a PEIS/POEIS that will address the reasonable alternatives and potential environmental impacts associated with implementing the Proposed Action. The scoping process solicits public comments regarding the range of issues, information and analyses relevant to the Proposed Action, including potential environmental impacts and reasonable alternatives to address in the PEIS/POEIS. The Coast Guard has determined that a PEIS/POEIS is the most appropriate type of NEPA document for this action because of the scope and complexity of the proposed acquisition and operation of up to 25 OPCs.

SUPPLEMENTARY INFORMATION:

Purpose and Need for the Proposed Action

The Coast Guard's current fleet of Medium Endurance Cutters (MEC) consists of 28 operational vessels homeported in the Coast Guard's area of responsibility (AOR) in the Atlantic, Pacific, and Gulf of Mexico. MECs primarily operate outside the 12 nm territorial seas and within the 200 nm Exclusive Economic Zone and primarily execute maritime law enforcement and search and rescue missions. Additional MEC operations occur in the Gulf of Mexico, the Caribbean Sea, and the Pacific between California and Panama. Current operational MECs have exceeded their designed 30-year service life and can no longer meet this need for the Coast Guard. Therefore, the Coast Guard must replace the aging MECs because they are too old and costly to be operationally effective. Some of the oldest MECs are already more than 55 years old and do not have sufficient hull life remaining to justify any attempts to modernize them. Therefore, the purpose of the Proposed Action is the acquisition and operation of up to 25 OPCs to replace the capabilities of the current operational MECs. OPCs have identical missions and operational characteristics as the MECs they replace. OPC differences include increased length to accommodate a fixed hanger for assigned aircraft, larger flight deck, greater at-sea endurance, an increased number of cutter boats, and modernized Command, Control, Computers, Navigation, and Combat systems. OPCs also feature enhanced environmental standards for clean air, noise, sewage, trash, and ballast.

Preliminary Proposed Action and Alternatives

Preliminary Proposed Action (Alternative 1): Under the preliminary Proposed Action, the Coast Guard would acquire and operate up to 25 OPCs with planned design lives of 30 years to fulfill mission requirements in the proposed action areas in the Atlantic Ocean, Gulf of Mexico, the Caribbean Sea, and Pacific Ocean, including Alaska, Hawaii, and Pacific Islands. Similar to the current fleet's operations, the Proposed Action would include vessel and aircraft operations as well as shipboard training exercises to meet the Coast Guard's mission responsibilities. OPCs would support the Coast Guard's missions that generally occur more than 50 nm (92 km) from shore and require long transit time to reach the farthest extent of the Coast Guard's AORs, forward deployment of forces with the U.S. Navy for National Defense, and an extended on-scene vessel presence.

An OPC's typical deployment schedule would be to perform law enforcement activities, which include interdicting any vessel suspected of illegal or unsafe activity in U.S. waters (*e.g.,* fishing without appropriate permits, carrying excessive passengers, or transporting contraband). However, the OPC would be expected to perform other federally-mandated emergent (*e.g.,* hurricane disaster response) or non-emergent missions, typically without sufficient time to return to port for additional provisions or reconfiguration. These missions include Ports, Waterways, and Coastal Security, Search and Rescue, Drug Interdiction, Migrant Interdiction, Living Marine Resource, Other Law Enforcement, and Defense Readiness. The OPC would also be required to enforce maritime environmental laws and regulations, escort vessels to protect national security, and to ensure safe maritime navigation. Coast Guard mandated missions are covered under Title 14 U.S.C. and 6 U.S.C. 468.

OPCs would carry up to three small, ridged hull inflatable over the horizon (OTH) boats, but only one to two OTH boats would be launched in support of OPC operations. Operations with OTH boats would enhance operational effectiveness by allowing for simultaneous boarding, inspecting, seizing, and neutralizing of surface targets of interest (*i.e.,* civilians suspected of breaking the law or requiring assistance). The OTH boats would also perform in situations and areas where it is either physically impossible or dangerous for the OPC to navigate. OTH boats would support activities such as vessel boardings, passenger transfers, and rescue of a person in distress.

All OPCs would be flight deck-equipped with the ability to launch, recover, hangar, and maintain manned (*i.e.,* helicopters) aircraft. The flight deck of the OPC would be capable of launching and recovering helicopters including all variants up to equivalent weight of a Sikorsky S–92. In general, helicopters supporting an OPC would either be from an embarked aviation detachment, or would fly from an established airstrip on shore either to the OPC or from the OPC to shore. Helicopter flights associated with the Proposed Action would occur in all Coast Guard AORs, and could be used for transport of personnel and equipment and for conducting training (*e.g.,* landing qualifications), in addition to supporting all OPC missions. All aircraft would follow the Coast Guard's Air Operations Manual (COMDTINST M3710.1H, October 2018).

All OPCs would also be flight deck-equipped with the ability to launch, recover, hangar, and maintain an Unmanned Aircraft System (UAS). Depending on available space, multiple UAS may be utilized. The OPC would have the capability to operate video-equipped UAS that would extend the visual capability of the OPC when conducting operations. The UAS would be deployed and recovered from the OPC. At this time, the specific type of UAS that would be deployed from the OPC is not known because the Coast Guard would acquire the most current UAS technology after the OPCs are operational. Coast Guard UAS Division sets policies and Standard Operating Procedures specific to UAS operations, including regulations that differ from those governing manned flight operations

Every 18–24 months, the OPC crew would undergo 3–4 weeks of training and evaluation, including over 100 drills and exercises in different scenarios (*e.g.,* flooding, combat, fires, refueling at sea, towing, active shooter) to demonstrate the crew's abilities to safely and effectively run the ship. During this training evaluation, a significant administrative portion is dedicated to ensure the ship's compliance with applicable laws, regulations, and policies. Some of the

activities are integral to Coast Guard emergency response. Although emergency response is not a part of the Proposed Action, training is required. Therefore, training on an OPC for an emergency response is considered part of the Proposed Action. Training would entail practicing response to a simulated emergency while continuing the safe operation and navigation of the OPC.

Gunnery training may occur up to four times per year on each OPC vessel and would only occur in ranges authorized by the Coast Guard and when possible, in established Navy ranges, particularly when live ammunition is used. Areas with sensitive marine resources would not be used for gunnery training.

Vessel performance testing would occur up to annually and would typically occur near that vessel's homeport similar to testing currently conducted for MECs.

Coast Guard OPC operations and training would occur after delivery of each OPC from the shipbuilder to the Coast Guard. For example, OPC–1 delivery to the Coast Guard is expected in 2022 and would undergo approximately one year of training to become ''Ready for Operations.'' OPC–1 would then become operational in 2023. The last OPC (*i.e.,* OPC–25) is expected to be delivered in 2037 and would then become operational in 2038.

Under Alternative 2, Reduced Acquisition: The Coast Guard would explore the acquisition of fewer OPCs after the completion of OPC–1 through OPC–4 which are under contract. The Coast Guard would consider five, ten, or fifteen OPCs via a re-competition of the original OPC contract as replacements for a corresponding number of in-service MECs. The Coast Guard would then need to replace the remaining MECs on a one-for-one basis, using whatever replacement hulls the Coast Guard could obtain when deterioration or obsolescence requires decommissioning. The life cycle training and logistical costs of maintaining several unique hulls would exceed the corresponding costs of maintaining a class of 25 cutters that would be built specifically to conduct missions in the Coast Guard's AORs. Costs and challenges are similar to what is described under Alternative 3.

Under Alternative 3, Purchase, Lease, and Inherit: The Coast Guard would explore various forms of cutter purchase or lease, or inherit vessels from the U.S. Navy, as the need arises. This would mean that as a MEC reaches or surpasses the end of its economic service life, that cutter would not necessarily be replaced with the same type of asset or by an asset with similar capabilities. One-for-one MEC replacement would cost far more per replacement hull because it eliminates any workforce savings associated with a ship with capabilities designed specifically to conduct Coast Guard missions in areas that may exceed 50 nm (93 km) from shore.

Other drawbacks to the purchase, lease, and inherit alternative include the lack of an existing domestic commercial vessel capable of meeting available options to Purchase and Build-to-Lease.

One of the major challenges with this approach is that Coast Guard systems would not be properly integrated, limiting ability of assets to communicate in real time and resulting in decreased efficiency throughout the system, as well as higher maintenance costs.

No Action Alternative: The evaluation of a No Action Alternative is required by the regulations implementing NEPA. Under the No Action Alternative, the Coast Guard would acquire OPC–1 through OPC–4, then would fulfill its missions in the Atlantic and Pacific Oceans and Gulf of Mexico using existing assets, which are reaching the end of their service lives. The existing assets would continue to age, causing a decrease in efficiency of machinery as well as an increased risk of equipment failure or damage, and would not be considered reliable for immediate emergency response. In addition, it would become more difficult for an ageing fleet to remain in compliance with environmental laws and regulations and standards for safe operation. Further Service Life Extensions become more challenging as significant systems and parts are no longer available, which requires contracting for systems or parts to be made specifically for the vessel.

The No Action Alternative would also not meet the Coast Guard's statutory mission requirements in the Atlantic and Pacific Oceans and Gulf of Mexico by providing air, surface, and shore-side presence in those areas. The Coast Guard also enforces the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA), and without reliable Coast Guard presence, enforcement of these laws would be significantly reduced. As such, the No Action Alternative does not meet the purpose and need.

Summary of Expected Impacts

While the Coast Guard must work toward environmental compliance during the design and acquisition of OPCs, each vessel is not expected to impact the environment or biological resources until it is operational. In addition, vessel construction in commercial shipyards is not expected to impact any physical or biological resources.

Although the total number of OPCs may be subject to change, Congressional Authorization is for no more than 25. Therefore, the PEIS/POEIS analyzes the potential impact associated with the proposed acquisition and operation of up to 25 OPCs, as this would be the highest number projected to be operational in the Coast Guard's AORs. Acoustic and physical stressors associated with the Proposed Action may potentially impact the physical and biological environment in the AORs. Potential acoustic stressors include: Underwater transmissions (depth-sounder/navigation system), vessel noise, aircraft noise, and gunnery noise. OPCs would not feature SONAR, but would employ navigational systems. Potential physical stressors include: Vessel movement, aircraft movement (helicopters, UAS), and marine expended materials (MEM).

Since the OPC AORs cover a broad geographic area, stressors associated with the Proposed Action may potentially impact air quality, ambient sound, biological resources (including critical habitat), and socioeconomic resources. The PEIS/POEIS evaluates the likelihood that a resource would be exposed to or encounter a stressor and identifies the potential impact associated with that exposure or encounter. The likelihood of an exposure or encounter is based on the stressor, location, and timing relative to the spatial and temporal distribution each biological resource or critical habitat.

Under the Proposed Action, underwater acoustic transmissions, vessel noise, aircraft noise, gunnery noise, vessel movement, aircraft movement, and MEM associated with the Proposed Action is not expected to result in significant impacts to the following resources: Air quality, ambient sound, marine vegetation, marine invertebrates, flying insects, birds, bats, marine fish, Essential Fish Habitat, marine reptiles, marine mammals, commercial fishing, marine construction, mineral extraction, oil and gas extraction, recreation and tourism, renewable energy, research, transportation and shipping, and subsistence fishing and hunting. The Proposed Action may affect, but is not likely to adversely affect any ESA-listed marine invertebrates, flying insects, birds, bats, fish, marine reptiles, and marine mammals.

There would be no effect to the critical habitat of black abalone, staghorn coral, and elkhorn coral. The

Proposed Action is not expected to result in the destruction or adverse modification of federally-designated critical habitat for the piping plover, spectacled eider, Steller's eider, western snowy plover, bocaccio, eulachon, green sturgeon, Gulf sturgeon, smalltooth sawfish, yelloweye rockfish, green sea turtle, hawksbill sea turtle, leatherback sea turtle, loggerhead sea turtle, humpback whale, North Atlantic right whale, North Pacific right whale, false killer whale, Southern resident killer whale, Steller sea lion, Hawaiian monk seal, ringed seal, West Indian manatee, sea otter, and polar bear. Pursuant to the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703–712 *et seq.*), the Proposed Action would not result in a significant adverse effect on migratory bird populations. Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. Sections 1801–1882), underwater acoustic transmissions, vessel noise, vessel movement, and MEM associated with the Proposed Action would not adversely affect the quality or quantity of EFH within the Coast Guard's AORs.

Anticipated Permits and Authorizations

The Coastal Zone Management Act (CZMA; 16 U.S.C. 1451 *et seq.*) was enacted to protect the coastal environment from demands associated with residential, recreational, and commercial uses. The Coast Guard would determine the impact of the Proposed Action and provide a Coastal Consistency Determination or Negative Determination to the appropriate state agency for anticipated concurrence once the homeports are selected for the OPCs.

The Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 *et seq.*) provides for the conservation of endangered and threatened species and the ecosystems on which they depend. The Coast Guard anticipates consulting under Section 7 of the ESA with the services, the National Marine Fisheries Service and the U.S. Fish and Wildlife Service that have jurisdiction over the species (50 CFR part 402.14(a)).

The Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) established, with limited exceptions, a moratorium on the ''taking'' of marine mammals in waters or on lands under U.S. jurisdiction, and on the High Seas by vessels or persons under U.S. jurisdiction. The MMPA further regulates ''takes'' of marine mammals in U.S. waters and by U.S. citizens on the High Seas. The term ''take,'' as defined in Section 3 (16 U.S.C. 1362) of the MMPA, means ''to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal''. ''Harassment'' was further defined in the 1994 amendments to the MMPA as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (*i.e.,* Level A Harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (*i.e.,* Level B Harassment). The Coast Guard anticipates requesting a Letter of Authorization to ''take'' marine mammals, defined as Level B harassment.

Schedule for the Decision-Making Process

The first OPC is expected to be operational by 2023 with a projected construction completion date of all 25 OPCs by 2037. Because the first OPC would not be operational until at least 2023 and the last not until at least 2038, new information may become available after the completion of the PEIS/POEIS. In that case, supplemental NEPA/E.O. 12114 documentation may be prepared in support of new information or changes in the Proposed Action considered under the PEIS/POEIS. Some examples of new information that may be included in supplemental NEPA/E.O. 12114 documentation are substantial changes in the Proposed Action relevant to environmental concerns, significant new environmental changes or information bearing on the Proposed Action, or information that arises to further the purposes of NEPA/E.O. 12114. The PEIS/OEIS is expected to be completed within 24 months of the date from which this notice is published in the **Federal Register**.

Public Scoping Process

The notice of intent initiates the scoping process, which guides the development of a PEIS/POEIS. The Coast Guard is seeking comments on the potential environmental impacts that may result from the acquisition, testing (post-dockside), and operation of up to 25 OPCs, and any associated onboard training to help in the development of a PEIS/POEIS. The Coast Guard is also seeking input on relevant information, studies, or analyses of any kind concerning impacts potentially affecting the quality of the human environment as a result of the Proposed Action. NEPA requires federal agencies to consider environmental impacts that may result from a Proposed Action, to inform the public of potential impacts and alternatives, and to facilitate public involvement in the assessment process. E.O. 12114, Environmental Effects Abroad of Major Federal Actions (44 **Federal Register** [FR] 1957), directs federal agencies to be informed of and take account of environmental considerations when making decisions regarding major federal actions outside of the U.S., its territories, and possessions. E.O. 12114 requires federal agencies to assess the effects of their actions outside the U.S. that may significantly harm the physical and natural environment. A PEIS/POEIS would include, among other topics, discussions of the purpose and need for the Proposed Action, a description of alternatives, a description of the affected environment, and an evaluation of the environmental impact of the Proposed Action and alternatives. The Coast Guard proposes to combine the PEIS and POEIS into one document, as permitted under NEPA and E.O. 12114, to reduce duplication.

The Coast Guard will evaluate a range of reasonable alternatives, and will analyze the No Action Alternative as a baseline for comparing the impacts of the Proposed Action. For the purposes of this Proposed Action, the No Action Alternative is defined as not approving the acquisition of OPC Stage 2 cutters (OPC cutters 5–25) and only replacing up to four of the current operational MECs using the four OPCs already under contract. Alternatives could include a reduction in the number of acquired vessels, upgrading the existing MEC fleet to further extend their useful life, and exploring various forms of cutter purchase or lease, or inheriting vessels from the U.S. Navy. The scoping period will begin upon publication of this notice in the **Federal Register** and continue for a period of forty-five (45) days.

The Coast Guard intends to follow the Council on Environmental Quality (CEQ) regulations implementing the NEPA (40 Code of Federal Regulations 1500 *et seq.*) by scoping through public comments. Scoping, which is integral to the process for implementing NEPA, provides a process to ensure that (1) issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft PEIS/POEIS is thorough and balanced; and (4) delays caused by an inadequate PEIS/POEIS are avoided.

Public scoping is a process for determining the scope of issues to be addressed in this PEIS/POEIS and for identifying the issues related to the Proposed Action that may have a significant effect on the environment. The scoping process begins with

publication of this notice and ends after the Coast Guard has:

- Invited the participation of Federal, State, and local agencies, any affected Indian tribe, and other interested persons;
- Consulted with affected Federally Recognized Tribes on a government-to-government basis, and with affected Alaska Native corporations, in accordance with E.O. 13175 and other policies. Native American concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given appropriate consideration;
- Determined the scope and the issues to be analyzed in depth in the PEIS/POEIS;
- Indicated any related environmental assessments or environmental impact statements that are not part of the PEIS/POEIS;
- Identified other relevant environmental review and consultation requirements, such as Coastal Zone Management Act consistency determinations, and threatened and endangered species and habitat impacts; and
- Indicated the relationship between timing of the environmental review and other aspects of the application process.

With this Notice of Intent, we are asking federal, state, Tribal, and local agencies with jurisdiction or special expertise with respect to environmental issues in the project area to formally cooperate with us in the preparation of the PEIS/POEIS.

Once the scoping process is complete, Coast Guard will prepare a draft PEIS/POEIS, and will publish a **Federal Register** notice announcing its public availability. We will provide the public with an opportunity to review and comment on the draft PEIS/POEIS. After Coast Guard considers those comments, we will prepare the final PEIS/POEIS and similarly announce its availability and solicit public review and comment. Comments received during the draft PEIS/POEIS review period will be available in the public docket and made available in the final PEIS/POEIS.

Pursuant to the CEQ regulations, Coast Guard invites public participation in the NEPA process. This notice requests public participation in the scoping process, establishes a public comment period, and provides information on how to participate.

The 45-day public scoping period begins November 18, 2020 and ends January 04, 2021. Comments and related material must be received by the Coast Guard and submitted to the online docket via *https://www.regulations.gov/.,* or otherwise reach the OPC Program Manager on or before January 04, 2021.

We encourage you to submit specific, timely comments through the Federal portal at *http://www.regulations.gov,* on the site provided when searching on the above docket number or searching for Offshore Patrol Cutter. If your material cannot be submitted using *http://www.regulations.gov,* contact the OPC program manager at *HQS-SMB-OPC-EIS@uscg.mil.* If you cannot submit comments electronically, written comments can be sent to: OPC Program Manager (CG–9322), U.S. Coast Guard Headquarters, 2703 Martin Luther King Jr. Ave. SE, Stop 7800, Washington, DC 20593.

In your submission, please include the docket number for this notice of intent and provide a reason for each suggestion or recommendation.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.* Documents mentioned in this notice of intent as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions.

Public Meeting

Coast Guard does not plan to hold public meetings during the scoping period, however if sufficient requests for public comment are received, Coast Guard will consider holding public meetings and will announce the dates, times, and locations in a separate document published in the **Federal Register**. To receive an email notice whenever a comment or notice, including the notice announcing when any meetings are to be held, is submitted or issued, go to the online docket and select the sign-up-for-email-alerts option. When it is published, we will place a copy of the announcement in the docket, and you will receive an email alert from *www.regulations.gov.* Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this Proposed Action. Comments submitted anonymously will be accepted and considered, however.

Authority: This PEIS/POEIS is being prepared in compliance with the National Environmental Policy Act (NEPA; 40 CFR 1502.14(d)) and Executive Order (E.O.) 12114.

Dated: November 13, 2020.

Andrew T. Pecora,

Captain, U.S. Coast Guard, OPC Program Manager (CG–9322).

[FR Doc. 2020–25452 Filed 11–17–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0067]

Agency Information Collection Activities: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than January 19, 2021) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0067 in the subject line and the agency name. Please use the following method to submit comments:

Email. Submit comments to: *CBP_PRA@cbp.dhs.gov.*

Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals

seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (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, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions 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, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions.

OMB Number: 1651–0067.

Current Actions: Extension.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: U.S. Customs and Border Protection (CBP) is responsible for determining whether imported articles that are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 9801.00.10, 9802.00.20, 9802.00.40, 9802.00.50, 9802.00.60 and 9817.00.40 are entitled to duty-free or reduced duty treatment. In order to file under these HTSUS provisions, importers, or their agents, must have the declarations that are provided for in 19 CFR 10.1(a), 10.8(a), 10.9(a) and 10.121 in their possession at the time of entry and submit them to CBP upon request. These declarations enable CBP to ascertain whether the requirements of these HTSUS provisions have been satisfied.

These requirements apply to the trade community who are familiar with CBP regulations and the tariff schedules.

Type of Information Collection: Declarations under Chapter 98.

Estimated Number of Respondents: 19,445.

Estimated Number of Annual Responses per Respondent: 3.

Estimated Number of Total Annual Responses: 58,335.

Estimated Time per Response: 1 minute (.016 hours).

Estimated Total Annual Burden Hours: 933.

Dated: November 12, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–25348 Filed 11–17–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0041]

Agency Information Collection Activities: Bonded Warehouse Regulations

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted no later than December 18, 2020 to be assured of consideration.

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.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (85 FR 55469) on September 8, 2020, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (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, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions 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, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Bonded Warehouse Regulations.

OMB Number: 1651–0041.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: Owners or lessees desiring to establish a bonded warehouse must make written application to the U.S. Customs and Border Protection (CBP) port director of the port where the warehouse is located. The application must include the warehouse location, a description of the premises, and an indication of the class of bonded warehouse permit desired. Owners or lessees desiring to alter or to relocate a bonded warehouse may submit an application to the CBP port director of the port where the facility is located. The authority to establish and maintain a bonded warehouse is set forth in 19 U.S.C. 1555, and provided for by 19 CFR 19.2, 19 CFR 19.3, 19 CFR 19.6, 19 CFR 19.14, and 19 CFR 19.36.

Estimated Number of Respondents: 198.

Estimated Number of Annual Responses per Respondent: 46.7.

Estimated Number of Total Annual Responses: 9,254.

Estimated Time per Response: 32 minutes.

Estimated Total Annual Burden Hours: 4,932.

Dated: November 12, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–25349 Filed 11–17–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0010]

Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee management; notice of open federal advisory committee meeting.

SUMMARY: The Board of Visitors for the National Fire Academy (Board) will meet virtually on Thursday, December 3, 2020. The meeting will be open to the public.

DATES: The meeting will take place on Thursday, December 3, 2020, 1 p.m. to 3 p.m., Eastern Time (ET). Please note that the meeting may close early if the Board has completed its business.

ADDRESSES: Members of the public who wish to participate in the virtual meeting should contact Deborah Gartrell-Kemp as listed in the **FOR FURTHER INFORMATION CONTACT** caption by 5 p.m. ET November 27, 2020, to obtain the call-in number and access code for the December 3, 2020, virtual meeting.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Board as listed in the **SUPPLEMENTARY INFORMATION** caption. Participants seeking to have their comments considered during the meeting should submit them in advance or during the public comment segment. Comments submitted up to 30 days after the meeting will be included in the public record and may be considered at the next meeting. Comments submitted in advance must be identified by Docket ID FEMA–2008–0010 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery:* Deborah Gartrell-Kemp, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, post-marked no later than November 20, 2020, for consideration at the December 3, 2020, meeting.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the Docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may wish to read the ''Privacy & Security Notice'' found via a link on the homepage of *www.regulations.gov.*

Docket: For access to the docket to read background documents or comments received by the National Fire Academy Board of Visitors, go to *http://www.regulations.gov,* click on ''Advanced Search,'' then enter ''FEMA–2008–0010'' in the ''By Docket ID'' box, then select ''FEMA'' under ''By Agency,'' and then click ''Search.''

FOR FURTHER INFORMATION CONTACT: *Alternate Designated Federal Officer:* Stephen Dean, (301) 447–1271, *Stephen.Dean@fema.dhs.gov.*

Logistical Information: Deborah Gartrell-Kemp, (301) 447–7230, *Deborah.GartrellKemp@fema.dhs.gov.*

Reasonable accommodations are available for people with disabilities. To request a reasonable accommodation, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** caption as soon as possible. Last minute requests will be accepted but may not be possible to fulfill.

SUPPLEMENTARY INFORMATION: The Board will meet virtually on Thursday, December 3, 2020. The meeting will be open to the public. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

Purpose of the Board

The purpose of the Board is to review annually the programs of the National Fire Academy (Academy) and advise the Administrator of the Federal Emergency Management Agency (FEMA), through the United States Fire Administrator, on the operation of the Academy and any improvements therein that the Board deems appropriate. In carrying out its responsibilities, the Board examines Academy programs to determine whether these programs further the basic missions that are approved by the Administrator of FEMA, examines the physical plant of the Academy to determine the adequacy of the Academy's facilities, and examines the funding levels for Academy programs. The Board submits a written annual report through the United States Fire Administrator to the Administrator of FEMA. The report provides detailed comments and recommendations regarding the operation of the Academy.

Agenda

On Thursday, December 3, 2020, there will be four sessions, with deliberations and voting at the end of each session as necessary:

1. The Board will discuss USFA Data, Research, Prevention, and Response.

2. The Board will discuss deferred maintenance and capital improvements on the National Emergency Training Center campus and Fiscal Year 2021 Budget Request/Budget Planning.

3. The Board will deliberate and vote on recommendations on Academy program activities to include developments, deliveries, staffing, and admissions.

4. There will also be an update on the Board of Visitors Subcommittee Groups for the Professional Development Initiative Update and the National Fire Incident Report System.

There will be a 10-minute comment period after each agenda item and each speaker will be given no more than two minutes to speak. Please note that the public comment period may end before the time indicated following the last call for comments. Contact Deborah Gartrell-Kemp to register as a speaker. Meeting materials will be posted at *https://*

www.usfa.fema.gov/training/nfa/about/bov.html by November 20, 2020.

Tonya L. Hoover,

Deputy Fire Administrator, National Fire Academy, United States Fire Administration, Federal Emergency Management Agency.

[FR Doc. 2020–25463 Filed 11–16–20; 8:45 am]

BILLING CODE 9111–74–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief Executive Officer of community	Community map repository	Date of modification	Community No.
Arkansas: Sebastian (FEMA Docket No.: B–2049).	City of Fort Smith (19–06–3706P).	The Honorable George B. McGill, Mayor, City of Fort Smith, P.O. Box 1908, Fort Smith, AR 72902.	Department of Engineering, 623 Garrison Avenue, Fort Smith, AR 72901.	Oct. 14, 2020	055013
Colorado:					
El Paso (FEMA Docket No.: B–2040).	City of Colorado Springs (19–08–0754P).	The Honorable John Suthers, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Suite 601, Colorado Springs, CO 80903.	Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, CO 80910.	Oct. 13, 2020	080060
El Paso (FEMA Docket No.: B–2040).	City of Fountain (19–08–0957P).	The Honorable Gabriel Ortega, Mayor, City of Fountain, 116 South Main Street, Fountain, CO 80817.	Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, CO 80910.	Oct. 13, 2020	080061
El Paso (FEMA Docket No.: B–2040).	Town of Monument (20–08–0011P).	The Honorable Don Wilson, Mayor, Town of Monument, 645 Beacon Lite Road, Monument, CO 80132.	Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, CO 80910.	Oct. 14, 2020	080064
El Paso (FEMA Docket No.: B–2040).	Unincorporated areas of El Paso County (19–08–0957P).	The Honorable Mark Waller, Chairman, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, CO 80910.	Oct. 13, 2020	080059
El Paso (FEMA Docket No.: B–2040).	Unincorporated areas of El Paso County (20–08–0011P).	The Honorable Mark Waller, Chairman, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, CO 80910.	Oct. 14, 2020	080059

State and county	Location and case No.	Chief Executive Officer of community	Community map repository	Date of modification	Community No.
Larimer (FEMA Docket No.: B–2049).	Unincorporated areas of Larimer County (20–08–0140P).	The Honorable Steve Johnson, Chairman, Larimer County Board of Commissioners, 200 West Oak Street, Suite 2200, Fort Collins, CO 80521.	Larimer County Engineering Department, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521.	Oct. 13, 2020	080101
Connecticut: Fairfield (FEMA Docket No.: B–2049).	Town of Westport (19–01–1183P).	The Honorable James Marpe, First Selectman, Town of Westport Board of Selectmen, 110 Myrtle Avenue, Westport, CT 06880.	Planning and Zoning Department, 110 Myrtle Avenue, Westport, CT 06880.	Oct. 13, 2020	090019
Florida:					
Collier (FEMA Docket No.: B–2042).	City of Marco Island (20–04–1872P).	Mr. Mike McNees, Manager, City of Marco Island, 50 Bald Eagle Drive, Marco Island, FL 34145.	Building Services Department, 50 Bald Eagle Drive, Marco Island, FL 34145.	Oct. 15, 2020	120426
Lee (FEMA Docket No.: B–2049).	City of Bonita Springs (19–04–5595P).	The Honorable Peter Simmons, Mayor, City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, FL 34135.	Community Development Department, 9220 Bonita Beach Road, Bonita Springs, FL 34135.	Oct. 13, 2020	120680
Lee (FEMA Docket No.: B–2049).	Unincorporated areas of Lee County (19–04–5595P).	Mr. Roger Desjarlais, Manager, Lee County, 2120 Main Street, Fort Myers, FL 33901.	Lee County Building Department, 1500 Monroe Street, Fort Myers, FL 33901.	Oct. 13, 2020	125124
Osceola (FEMA Docket No.: B–2042).	City of St. Cloud (19–04–5088P).	Mr. William Sturgeon, Manager, City of St. Cloud, 1300 9th Street, St. Cloud, FL 34769.	Building Department, 1300 9th Street, St. Cloud, FL 34769.	Oct. 13, 2020	120191
Osceola (FEMA Docket No.: B–2042).	Unincorporated areas of Osceola County (19–04–5088P).	The Honorable Viviana Janer, Chair, Osceola County Board of Commissioners, 1 Courthouse Square, Suite 4700, Kissimmee, FL 34741.	Osceola County Stormwater Department, 1 Courthouse Square, Suite 3100, Kissimmee, FL 34741.	Oct. 13, 2020	120189
Sarasota (FEMA Docket No.: B–2040).	Unincorporated areas of Sarasota (20–04–2329P).	The Honorable Charles D. Hines, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	Oct. 13, 2020	125144
Georgia:					
Chatham (FEMA Docket No.: B–2040).	City of Savannah (19–04–5445P).	The Honorable Eddie Deloach, Mayor, City of Savannah, P.O. Box 1027, Savannah, GA 31402.	Development Services Department, 5515 Abercorn Street, Savannah, GA 31405.	Oct. 13, 2020	135163
Gwinnett (FEMA Docket No.: B–2049).	Unincorporated areas of Gwinnett County (19–04–6977P).	The Honorable Charlotte J. Nash, Chair, Gwinnett County Board of Commissioners, 751 Langley Drive, Lawrenceville, GA 30046.	Gwinnett County Department of Planning and Development, 446 West Crogan Street, Lawrenceville, GA 30046.	Oct. 15, 2020	130322
Maine:					
Washington (FEMA Docket No.: B–2043).	Town of Alexander (20–01–0495P).	The Honorable Foster Carlow Jr., Chairman, Town of Alexander Board of Selectmen, 50 Cooper Road, Alexander, ME 04694.	Town Hall, 50 Cooper Road, Alexander, ME 04694.	Oct. 19, 2020	230303
Washington (FEMA Docket No.: B–2043).	Town of Baileyville (20–01–0495P).	Mr. Chris Loughlin, Town of Baileyville Manager, P.O. Box 370, Baileyville, ME 04694.	Town Hall, 63 Broadway, Baileyville, ME 04694.	Oct. 19, 2020	230304
Washington (FEMA Docket No.: B–2043).	Town of Baileyville (20–01–0623P).	Mr. Chris Loughlin, Town of Baileyville Manager, P.O. Box 370, Baileyville, ME 04694.	Town Hall, 63 Broadway, Baileyville, ME 04694.	Oct. 15, 2020	230304
Washington (FEMA Docket No.: B–2052).	Town of Dennysville (20–01–0179P)	The Honorable Dawn Noonan, Chair, Town of Dennysville Board of Selectmen, P.O. Box 70, Dennysville, ME 04628.	Town Hall, 2 Main Street, Dennysville, ME 04628.	Oct. 15, 2020	230312
Washington (FEMA Docket No.: B–2052).	Town of Pembroke (20–01–0179P).	The Honorable Milan Jamieson, Chairman, Town of Pembroke, Board of Selectmen, P.O. Box 247, Pembroke, ME 04666.	Town Hall, 48 Old County Road, Pembroke, ME 04666.	Oct. 15, 2020	230143
Washington (FEMA Docket No.: B–2052).	Town of Perry (20–01–0179P).	The Honorable Ann Bellefleur, Chair, Town of Perry Board of Selectmen, P.O. Box 430, Perry, ME 04667.	Town Hall, 898 U.S. Route 1, Perry, ME 04667.	Oct. 15, 2020	230319
Washington (FEMA Docket No.: B–2043).	Town of Princeton (20–01–0495P).	The Honorable Scott Carle, Chairman, Town of Princeton Board of Selectmen, P.O. Box 408, Princeton, ME 04668.	Town Hall, 15 Depot Street, Princeton, ME 04668.	Oct. 19, 2020	230320
Washington (FEMA Docket No.: B–2043).	Town of Princeton (20–01–0623P).	The Honorable Scott Carle, Chairman, Town of Princeton Board of Selectmen, P.O. Box 408, Princeton, ME 04668.	Town Hall, 15 Depot Street, Princeton, ME 04668.	Oct. 15, 2020	230320
Washington (FEMA Docket No.: B–2052).	Town of Robbinston (20–01–0179P).	The Honorable Tom Moholland, Chairman, Town of Robbinston Board of Selectmen, 986 Ridge Road, Robbinston, ME 04671.	Town Hall, 986 Ridge Road, Robbinston, ME 04671.	Oct. 15, 2020	230321
Washington (FEMA Docket No.: B–2043).	Town of Vanceboro (20–01–0424P).	The Honorable Harold J. Jordan, Chairman, Town of Vanceboro Board of Selectmen, P.O. Box 24, Vanceboro, ME 04491.	Town Hall, 101 High Street, Vanceboro, ME 04491.	Oct. 16, 2020	230325

State and county	Location and case No.	Chief Executive Officer of community	Community map repository	Date of modification	Community No.
Washington (FEMA Docket No.: B–2043).	Township of Lambert Lake (20–01–0424P).	Ms. Stacie Beyer, Chief Planner, Land Use Planning Commission, Township of Lambert Lake, 18 Elkins Lane, Augusta, ME 04333.	Township Hall, 18 Elkins Lane, Augusta, ME 04333.	Oct. 16, 2020	230472
York (FEMA Docket No.: B–2042).	Town of York (20–01–0642P).	The Honorable Todd A. Frederick, Chairman, Town of York Board of Selectmen, 186 York Street, York, ME 03909.	Planning Department, 186 York Street, York, ME 03909.	Oct. 13, 2020	230159
Mississippi:					
DeSoto (FEMA Docket No.: B–2052).	Unincorporated areas of DeSoto County (19–04–3965P).	The Honorable Jessie Medlin, President, DeSoto County Board of Supervisors, 365 Losher Street, Suite 300, Hernando, MS 38632.	DeSoto County Planning and Building Department, 365 Losher Street, Suite 200, Hernando, MS 38632.	Oct. 16, 2020	280050
Harrison (FEMA Docket No.: B–2049).	City of Long Beach (20–04–3634P).	The Honorable George L. Bass, Mayor, City of Long Beach, 201 Jeff Davis Avenue, Long Beach, MS 39560.	Department of Permits and Zoning, 201 Jeff Davis Avenue, Long Beach, MS 39560.	Oct. 13, 2020	285257
New Mexico: Dona Ana (FEMA Docket No.: B–2042).	City of Sunland Park (19–06–3737P).	The Honorable Javier Perea, Mayor, City of Sunland Park, 1000 McNutt Road, Suite A, Sunland Park, NM 88063.	Community Services Department, 950 McNutt Road, Sunland Park, NM 88063.	Oct. 14, 2020	350147
South Carolina: Charleston (FEMA Docket No.: B–2042).	City of Isle of Palms (20–04–2572P).	The Honorable Jimmy Carroll, Mayor, City of Isle of Palms, 1207 Palm Boulevard, Isle of Palms, SC 29451.	Building and Planning Department, 1207 Palm Boulevard, Isle of Palms, SC 29451.	Oct. 19, 2020	455416
South Dakota:					
Lawrence (FEMA Docket No.: B–2042).	City of Spearfish (19–08–0882P).	The Honorable Dana Boke, Mayor, City of Spearfish, 625 North 5th Street, Spearfish, SD 57783.	Building and Development Department, 625 North 5th Street, Spearfish, SD 57783.	Oct. 16, 2020	460046
Pennington (FEMA Docket No.: B–2049).	City of Rapid City (20–08–0020P).	The Honorable Steve Allender, Mayor, City of Rapid City, 300 6th Street, Rapid City, SD 57701.	Public Works Department, Engineering Services Division, 300 6th Street, Rapid City, SD 57701.	Oct. 19, 2020	465420
Texas:					
Bell (FEMA Docket No.: B–2049).	City of Nolanville (19–06–1647P).	The Honorable Andy Williams, Mayor, City of Nolanville, 101 North 5th Street, Nolanville, TX 76559.	City Hall, 101 North 5th Street, Nolanville, TX 76559.	Oct. 14, 2020	480032
Bexar (FEMA Docket No.: B–2049).	City of Converse (19–06–1746P).	The Honorable Al Suarez, Mayor, City of Converse, 403 South Seguin, Converse, TX 78109.	City Hall, 403 South Seguin, Converse, TX 78109.	Oct. 19, 2020	480038
Bexar (FEMA Docket No.: B–2049).	City of Universal City (19–06–1746P).	The Honorable John Williams, Mayor, City of Universal City, 2150 Universal City Boulevard, Universal City, TX 78148.	Department of Stormwater, 2150 Universal City Boulevard, Universal City, TX 78148.	Oct. 19, 2020	480049
Collin (FEMA Docket No.: B–2043).	City of Celina (19–06–2644P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	City Hall, 142 North Ohio Street, Celina, TX 75009.	Oct. 13, 2020	480133
Collin (FEMA Docket No.: B–2042).	City of McKinney (19–06–3345P).	Mr. Paul Grimes, Manager, City of McKinney, 222 North Tennessee Street, McKinney, TX 75069.	Department of Engineering, 221 North Tennessee Street, McKinney, TX 75069.	Oct. 13, 2020	480135
Collin (FEMA Docket No.: B–2043).	Unincorporated areas of Collin County (19–06–2644P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	Oct. 13, 2020	480130
Collin (FEMA Docket No.: B–2042).	Unincorporated areas of Collin County (19–06–3345P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	Oct. 13, 2020	480130
Denton (FEMA Docket No.: B–2040).	City of Roanoke (19–06–2882P).	The Honorable Scooter Gierisch, Jr., Mayor, City of Roanoke, 500 South Oak Street, Roanoke, TX 76262.	City Hall, 500 South Oak Street, Roanoke, TX 76262.	Oct. 14, 2020	480785
Midland (FEMA Docket No.: B–2043).	City of Midland (19–06–2755P).	The Honorable Patrick Payton, Mayor, City of Midland, 300 North Loraine Street, Midland, TX 79701.	City Hall, 300 North Loraine Street, Midland, TX 79701.	Oct. 15, 2020	480477
Tarrant (FEMA Docket No.: B–2043).	City of Haslet (19–06–2524P).	The Honorable Bob Golden, Mayor, City of Haslet, 101 Main Street, Haslet, TX 76052.	Engineering and Public Works Department, 101 Main Street, Haslet, TX 76052.	Oct. 15, 2020	480600
Utah: Washington (FEMA Docket No.: B–2042).	Unincorporated areas of Washington County (19–08–1063P).	The Honorable Victor Iverson, Chairman, Washington County Commission, 197 East Tabernacle Street, St. George, UT 84770.	Washington County Administration Building, 197 East Tabernacle Street, St. George, UT 84770.	Oct. 15, 2020	490224
Virginia:					
Frederick (FEMA Docket No.: B–2043).	City of Winchester (20–03–0437P).	The Honorable John David Smith, Jr., Mayor, City of Winchester, 15 North Cameron Street, Winchester, VA 22601.	City Hall, 15 North Cameron Street, Winchester, VA 22601.	Oct. 19, 2020	510173
Frederick (FEMA Docket No.: B–2043).	Unincorporated areas of Frederick County (20–03–0437P).	The Honorable Charles S. DeHaven, Jr., Chairman-at-Large, Frederick County, Board of Supervisors, 107 North Kent Street, Winchester, VA 22601.	Frederick County Zoning Department, 107 North Kent Street, Winchester, VA 22601.	Oct. 19, 2020	510063

State and county	Location and case No.	Chief Executive Officer of community	Community map repository	Date of modification	Community No.
Stafford (FEMA Docket No.: B–2044).	Unincorporated areas of Stafford County (20–03–0607P).	Mr. Thomas C. Foley, Stafford County Administrator, 1300 Courthouse Road, Stafford, VA 22554.	Stafford County Department of Public Works, Environmental Division, 2126 Jefferson Highway, Suite 203, Stafford, VA 22554.	Oct. 19, 2020	510154
Washington DC: (FEMA Docket No.: B–2043).	District of Columbia (20–03–0337P).	The Honorable Muriel Bowser, Mayor, District of Columbia, 1350 Pennsylvania Avenue Northwest, Washington, DC 20004.	Department of Energy and Environment, 1200 1st Street Northeast, Suite 500, Washington, DC 20002.	Oct. 19, 2020	110001

[FR Doc. 2020–25346 Filed 11–17–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2063]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before February 16, 2021.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2063, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each

community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Bay County, Florida and Incorporated Areas Project: 11–04–1987S Preliminary Date: October 25, 2019	
City of Callaway	Planning and Zoning Department, 324 South Berthe Avenue, Callaway, FL 32404.
City of Lynn Haven	Planning and Zoning Department, 825 Ohio Avenue, Lynn Haven, FL 32444.
City of Mexico Beach	City Hall, 201 Paradise Path, Mexico Beach, FL 32410.
City of Panama City	Planning Department, 501 Harrison Avenue, Panama City, FL 32401.
City of Panama City Beach	Building Department, 116 South Arnold Road, Panama City Beach, FL 32413.
City of Parker	City Hall, 1001 West Park Street, Parker, FL 32404.
City of Springfield	City Hall, 408 School Avenue, Springfield, FL 32401.
Unincorporated Areas of Bay County	Bay County Planning and Zoning Department, 840 West 11th Street, Panama City, FL 32401.
Charles City County, Virginia (All Jurisdictions) Project: 16–03–2426S Preliminary Date: May 29, 2020	
Unincorporated Areas of Charles City County	Charles City County Courthouse, 10900 Courthouse Road, Charles City, VA 23030.
Surry County, Virginia and Incorporated Areas Project: 16–03–2426S Preliminary Date: May 29, 2020	
Town of Dendron	Town Hall, 2855 Rolfe Highway, Dendron, VA 23839.
Unincorporated Areas of Surry County	Surry County Government Center, 45 School Street, Surry, VA 23883.

[FR Doc. 2020–25344 Filed 11–17–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2009–0018]

Intent to Request Extension From OMB of One Current Public Collection of Information: Certified Cargo Screening Standard Security Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), OMB control number 1652–0053, abstracted below that we will submit to the Office of Management and Budget (OMB) for an extension in compliance with the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. The collections of information that make up this ICR include: (1) Applications from entities that wish to become Certified Cargo Screening Facilities (CCSFs), Third-Party Canine-Cargo (3PK9–C) Certifiers or Certified Cargo Screening Program-Canine (CCSP–K9) Holders; (2) personally identifiable information to allow TSA to conduct security threat assessments (STA) and/or Criminal History Records Check (CHRC) on certain individuals employed by the CCSFs, 3PK9–C Certifiers, Certified Cargo Screening Facilities-K9 (CCSF–K9) and those authorized to conduct 3PK9–C Program activities; (3) standard security program or submission of a proposed modified security program or amendment to a security program by CCSFs and CCSF–K9s or standards provided by TSA or submission of a proposed modified standard by 3PK9–C Certifiers; (4) recordkeeping requirements for CCSFs, CCSF–K9s and 3PK9–C Certifiers; (5) designation of a Security Coordinator (SC) by CCSP Holders, CCSP–K9 Holders and 3PK9–C Certifiers; and (6) significant security concerns detailing information of incidents, suspicious activities, and/or threat information by CCSP Holders, CCSP–K9 Holders and CCSP–K9 Holders. TSA is seeking an extension of this ICR for the continuation of the Certified Cargo Screening Program (CCSP) in order to secure passenger aircraft carrying cargo.

DATES: Send your comments by January 19, 2021.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Information Technology, TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control

number. The ICR documentation will be available at *www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

OMB Control Number 1652–0053, Certified Cargo Screening Standard Security Program, 49 CFR Parts 1515, 1540, 1544, 1546, 1548, and 1549. Section 1602 of The Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53, 121 Stat. 266, Aug. 3, 2007) (August 2007) (9/11 Act) required the development of a system to screen 100 percent of such cargo no later than August 2010. TSA currently requires 100 percent screening of all cargo transported on passenger aircraft.[1] The screening of air cargo must be in a manner approved by TSA and be commensurate with the level of security for the screening of passenger checked baggage.[2]

TSA's regulations in 49 CFR part 1549 for the Certified Cargo Screening Program (CCSP) support the 9/11 Act mandate by providing an alternative means of compliance with the 100% screening requirement. In order to comply with the statutory mandate, the CCSP allows shippers, indirect air carriers, and other entities to voluntarily participate in a program through which TSA certifies entities to screen air cargo off-airport before it is tendered to air carriers for transport on passenger aircraft. CCSFs may screen cargo off-airport and must implement measures to ensure a secure chain of custody from the point of screening to the point at which the cargo is tendered to the aircraft operator. The collection of information under the CCSP (see OMB number 1652–0053) are incorporated into this ICR.

As a signatory to the Convention on International Aviation, the United States has agreed to apply the standards contained in Annex 17 as promulgated by the International Civil Aviation Organization (ICAO). Amendment 14 of Annex 17 removed the distinction between passenger and cargo operations and now requires that all cargo be subject to security controls, including screening where practicable, on all commercial air transport operations.[3] ICAO has provided until June 30, 2021 for member states to implement the above standard. When considering the current requirement to screen 100% of air cargo transported on passenger and all cargo aircraft, TSA expects that there will be an increase in demand for more options to mitigate the cost of screening cargo as the United States begins to build up and implement security controls to meet the June 30, 2021 deadline to implement Annex 17, Standard 4.6.1.

In the Spring 2020, OMB approved TSA's request to revise the ICR in response to changing conditions in the air cargo industry. Consistent with the need to expand screening capabilities to meet the ICAO standards that take effect in 2021, the TSA Modernization Act required TSA to develop a program for TSA to certify 3PK9–C Teams to screen air cargo.[4] TSA incorporated this capability under the framework of the CCSP, providing an opportunity for canine team providers to choose to be regulated as CCSFs under 49 CFR part 1549 and approved to use Certified 3PK9–C Teams to screen cargo for TSA regulated entities.

All CCSFs are required to allow TSA to assess whether a person or entity meets the standards of the applicable security program requirements. A CCSF–K9 is an inherently mobile capability that can screen cargo at the facility owned and operated by one of TSA's regulated entities. As holders of a TSA-approved security program issued pursuant to 49 CFR part 1549, canine providers participating in this program can contract with air carriers and standard CCSFs to screen air cargo, on or off airport, with canine explosives detection teams certified as meeting TSA's standards. The 3PK9–C program approves third-party (non-governmental) certifiers, operating under the 3PK9–C Certifier Order, to evaluate canine teams to determine whether these teams meet the TSA certification standards.

Recognizing non-governmental entities to evaluate 3PK9–C Teams to determine whether these teams meet TSA's standards for the certification of explosives detection canine teams approved to screen air cargo serves two purposes. First, it ensures effective security. TSA must have confidence that the screening conducted by Certified 3PK9–C Teams will protect air cargo by identifying unauthorized explosives, incendiaries, and other destructive substances and protect the air cargo from the introduction of these destructive substances from the time the cargo is screened until it is accepted by an aircraft operator or a foreign air carrier for transport. To provide this confidence, TSA established uniform processes and standards for approval of 3PK9–C Certifiers, including qualification of personnel who will evaluate canine teams and consistent application of TSA's criteria for canine teams seeking certification or recertification as a Certified 3PK9–C Team. Second, the use of third-party certifiers allows for market-driven expansion of the program. As required by section 1941 of the TSA Modernization Act, no federal funds can be expended for the training or certification of canine teams operating under this program. As with the CCSF–K9s, qualified persons may apply to become a 3PK9–C Certifier. If approved, the 3PK9–C Certifier agrees to comply with an Order issued by TSA under the authority of 49 U.S.C. 46105.

There are three primary programs issued under 49 CFR part 1549 that ensure compliance with TSA's requirements by persons choosing to participate in the program: (1) The Certified Cargo Screening Security Program, applicable to facilities-based CCSFs; (2) the Certified Cargo Security Program-Canine, applicable to canine team providers; and (3) the 3PK9–C Certifier Order, applicable to third-party certifiers. The collections of information under the CCSP are incorporated into this ICR. The following are required to maintain participation under the programs available under the CCSP:

(1a) *CCSF Applications.* A CCSF and CCSF–K9 applicant is required to submit an

[1] *See* 49 CFR 1544.205(g) and 1546.205(g)(1).

[2] *Id. See also* 49 U.S.C. 44901(g)(2).

[3] *See* Convention of International Civil Aviation, Amendment 14, Annex 17, Standard 4.6.1.

[4] *See* sec. 1941 of the FAA Reauthorization Act of 2019, Division K, Title I (Pub. L. 115–254; 132 Stat. 3186; Oct. 5, 2018).

application to become a CCSF at least 90 days before the intended date of operation. In addition, once certified as a CCSF, the CCSF is required to submit any changes to the application information as they occur. CCSFs must renew their certification every 36 months by submitting a new complete application. CCSF applicants are required to provide TSA access to their records, equipment, and facilities necessary for TSA to conduct an eligibility assessment. (49 CFR 1549.7). A CCSF–K9 applicant must also submit an Operational Implementation Plan (OIP), described within the CCSP–K9 and any changes to the plan information as they occur.

(1b) *3PK9–C Certifier Applications.* TSA requires submission of initial applications, and updates to information in an application, by any person interested in being a 3PK9–C Certifier under the 3PK9–C Certifier Order.

(2a) *STA Applications.* TSA regulations require CCSF applicants to ensure that individuals performing cargo screening and related functions, and their supervisors have completed an STA conducted by TSA. In addition, TSA regulations require CCSF Security Coordinators and their alternates to successfully have completed an STA. TSA regulations further require these individuals to submit personally identifiable information so that TSA can perform STAs. See TSA Form 419F, previously approved under OMB control number 1652–0040 (49 CFR 1549.111 and 1549.103).

(2b) *CHRC.* TSA requires collection of personally identifiable information including fingerprints as necessary to conduct a CHRC from 3PK9–C Certifiers, CCSF–K9s, employees and authorized representatives, and those authorized to conduct 3PK9–C Program activities with unescorted access to a Security Identification Display Area, screening of air cargo, or carrying of explosives in the air cargo environment.

(3) *Recordkeeping.* TSA requires CCSFs, CCSF–K9s, (49 CFR 1549.105), and 3PK9–C Certifiers to maintain records of compliance and make them available for TSA inspection.

(4a) *Security Programs.* TSA requires CCSFs and CCSF–K9s to accept and operate under a standard security program provided by TSA, or submit a proposed modified security program or amendment(s) to the designated TSA official for approval initially and periodically thereafter as required (49 CFR 1549.7).

(4b) *The 3PK9–C Certifier Order.* TSA requires 3PK9–C Certifiers to accept standards provided by TSA, or submit a proposed modified standard to the designated TSA official for approval initially and periodically thereafter as required.

(5) *Significant Security Concerns Information.* TSA requires CCSP Holders, CCSP–K9 Holders, and 3PK9–C Certifiers to report to TSA incidents, suspicious activities, and/or threat information.

(6) *Security Coordinator.* TSA requires CCSP Holders, CCSP–K9 Holders, and 3PK9–C Certifiers to provide the name and contact information of the SC and one or more designated alternates at the corporate or ownership level.

Estimated Burden Hours

TSA estimates the annual respondents for CCSF, CCSP–K9, and 3PK9–C Certifier to be 2,527 and the total annual hour burden to be 16,189.98 hours.

Dated: November 12, 2020.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2020–25368 Filed 11–17–20; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2020–N143; FXES11140100000–212–FF01E00000]

Draft Safe Harbor Agreements and Draft Environmental Assessments for the Marbled Murrelet in Washington State

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), received two applications for enhancement of survival permits (permits) pursuant to the Endangered Species Act of 1973, as amended. The permits would authorize the incidental take of the threatened marbled murrelet associated with forest management actions on private lands. The applications each include a safe harbor agreement (SHA), describing the actions the applicants will take to achieve a net conservation benefit on their lands for the species. We also announce the availability of two draft environmental assessments (EAs) addressing the effects of the proposed permits and SHAs on the human environment in accordance with the National Environmental Policy Act. We invite comments from all interested parties.

DATES: To ensure consideration, please submit written comments by December 18, 2020.

ADDRESSES: You may view or download copies of the SHAs and draft EAs and obtain additional information on the internet at *http://www.fws.gov/wafwo/.* To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to ''Marbled Murrelet SHAs in Washington:''

- *Email: wfwocomments@fws.gov.*
- *U.S. Mail:* Public Comments Processing, Attn: FWS–R1–ES–2020–N143 U.S. Fish and Wildlife Service; Washington Fish and Wildlife Office, 510 Desmond Drive SE, Suite 102; Lacey, WA 98503.

FOR FURTHER INFORMATION CONTACT: Tim Romanski, Conservation Planning and Hydropower Branch Manager, Washington Fish and Wildlife Office (see **ADDRESSES**); telephone: 360–753–5823 or 360–951–4303. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Service received applications from the Rayonier Operating Company, LLC (Rayonier), and the Sierra Pacific Land & Timber Company Operating Company (Sierra Pacific) (jointly, the applicants) for enhancement of survival permits (permits) pursuant to section 10(a)(1)(A) of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). The applications each request a permit that would authorize ''take'' of the threatened marbled murrelet associated with forest management actions on private lands, with implementation of a Safe Harbor Agreement (SHA). The SHAs describe actions the applicants will take to achieve a net conservation benefit for the covered species on the applicants' lands. The Service also announces the availability of two draft environmental assessments (EAs) addressing the effects of the proposed permits and SHAs on the human environment in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We invite comments from all interested parties regarding the permit applications, including the SHAs and draft EAs.

Background

Section 9 of the ESA prohibits ''take'' of fish and wildlife species listed as endangered (16 U.S.C. 1538(a)(1)). Section 4 of the ESA allows FWS to issue regulations which prohibit the take of any fish and wildlife species listed as threatened, as well (16 U.S.C. 1533(d)). The take prohibition has been extended to the marbled murrelet. Under the ESA, the term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term ''harm,'' as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term ''harass'' is defined in our regulations as an intentional or negligent act or

omission which creates the likelihood of injury to listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity (50 CFR 17.3).

Under an SHA, participating landowners undertake management activities on their property to enhance, restore, or maintain habitat conditions for species listed under the ESA to an extent that is likely to result in a net conservation benefit for the covered listed species. An SHA, and the associated enhancement of survival permit issued to participating landowners, encourages private and other non-Federal property owners to implement conservation actions for federally listed species by assuring the participating landowners that they will not be subject to increased property use restrictions as a result of their efforts to either attract listed species to their property, or to increase the numbers or distribution of listed species already on their property.

An SHA and its associated permit allow the property owner to alter or modify the enrolled property back to agreed-upon pre-permit baseline conditions at the end of the term of the permit, even if such alteration or modification results in the incidental take of a listed species. The baseline conditions must reflect the known biological and habitat characteristics that support existing levels of use of the enrolled property by the species covered in the SHA. The authorization to take listed species is contingent on the property owner complying with obligations in the SHA and the terms and conditions of the permit. The SHA's net conservation benefits must be sufficient to contribute, either directly or indirectly, to the recovery of the covered listed species. Enrolled landowners may make lawful use of the enrolled property during the term of the permit and may incidentally take the listed species named on the permit in accordance with the terms and conditions of the permit.

Permit application requirements and issuance criteria for enhancement of survival permits for SHAs that involve species listed as threatened, such as the marbled murrelet, are found in the Code of Federal Regulations (CFR) at 50 CFR 17.32(c). The Service's Safe Harbor Policy (64 FR 32717, June 17, 1999) and the Safe Harbor Regulations (68 FR 53320, September 10, 2003; and 69 FR 24084, May 3, 2004) are available at *http://www.fws.gov/endangered/laws-policies/regulations-and-policies.html.*

Proposed Actions

The applicants have both developed SHAs in support of their applications for enhancement of survival permits, pursuant to section 10(a)(1)(A) of the ESA. Rayonier's proposed SHA is for forest management activities on over 212,400 acres of privately owned lands located in eleven counties in western Washington. Sierra Pacific's proposed SHA is for forest management activities on over 184,300 acres of privately owned lands located in six counties in western Washington. The Service's proposed actions are issuance of the requested permits and implementation of the SHAs.

The requested permits would allow the applicants to maintain or increase potential nesting habitat for the threatened marbled murrelet on their lands, while providing incidental take authorization for marbled murrelets associated with timber harvesting and other forest management activities when conducted on the covered lands. Under the proposed SHAs, the applicants will continue to manage their forest lands for timber production in compliance with the Washington Forest Practices Rules, which include provisions for the protection of forested buffers along rivers, streams, wetlands, and unstable slopes. Under the SHAs, the applicants will continue to protect all previously-documented occupied marbled murrelet habitat on their lands. Additionally, each applicant will defer harvest in certain other areas identified as potential marbled murrelet nesting habitat on their lands for the term of their respective SHA. By volunteering to defer timber harvest in certain areas, the proposed SHAs protect more forest habitat on their lands than would otherwise be protected under existing forest practices rules. The term of the permits would extend to 2056, to coincide with the term of the 2006 Washington Forest Practices Habitat Conservation Plan, which provides take coverage for other ESA-listed salmon and other aquatic species.

National Environmental Policy Act Compliance

The proposed issuance of a permit is a Federal action that triggers the need for compliance with NEPA. Pursuant to the requirements of NEPA, we have prepared two draft EAs to analyze the environmental impacts of a reasonable range of alternatives to the proposed Federal permit actions. As the EAs were developed prior to the Council on Environmental Quality's issuance of updated regulations implementing NEPA, which went into effect on September 14, 2020 (40 CFR 1506.13), they were developed under the previous regulations in the interest of time and efficiency.

The EAs analyze similar alternatives, and each includes a no-action alternative, the proposed action, and an additional action alternative. For each EA, the proposed action is implementation of the SHA and issuance of the requested permit, as described above and in more detail in the individual SHAs. Each EA also analyses a no-action alternative, where the proposed Federal action of issuing the permit would not proceed, and one additional alternative analyzing a variation on the type and amount of habitat being considered to meet the net conservation benefit standard.

Public Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We specifically request information, views, and opinions from interested parties regarding our proposed Federal actions, including on the adequacy of the SHAs pursuant to the requirements for permits at 50 CFR parts 13 and 17 and the adequacy of the draft EAs pursuant to the requirements of NEPA.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

After public review and completion of the EAs, we will determine whether the proposed actions warrant findings of no significant impact or whether environmental impact statements should be prepared. We will evaluate the permit applications, associated documents, and any comments received, to determine whether each

permit application meets the requirements of section 10(a)(1)(A) of the ESA. We will also evaluate whether issuance of the requested permits would comply with section 7(a)(2) of the ESA by conducting separate intra-Service consultations on each proposed permit action. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all comments received during the comment period. If we determine that all requirements are met, we intend to issue enhancement of survival permits under section 10(a)(1)(A) of the ESA.

Authority

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.32 and 40 CFR 1506.6, respectively).

Robyn Thorson,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 2020–25359 Filed 11–17–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX21RB00TU60200; OMB Control Number 1028–0123]

Agency Information Collection Activities; Current and Future Landsat User Requirements

AGENCY: Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC.

DATES: Interested persons are invited to submit comments on or before January 19, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0123 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Rudy Schuster, Branch Chief by email at *schusterr@usgs.gov,* or by telephone at (970) 226–9165.

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 USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. 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 USGS National Land Imaging (NLI) Program is currently planning for the next generation of Landsat satellites. These satellites will continue the multi-decadal continuous collection of moderate-resolution, multispectral, remotely-sensed imagery through the Landsat program. Landsat satellite imagery has been available at no cost to the public since 2008, which has resulted in the distribution of millions of scenes each subsequent year, as well tens of thousands of Landsat users registering with USGS to access the data. In order to continue to provide high quality imagery that meets the needs of users, NLI is collecting current and future user requirements for sensor and satellite attributes. These attributes include spatial resolution, spectral bands, frequency of acquisition, and many others. NLI will use the information from this collection to understand if they are currently meeting the needs of their user community and to help determine the features of future Landsat satellites. Questions will be asked to determine user characteristics, current uses of imagery, preferred attributes of Landsat imagery, and benefits of Landsat imagery. Previous surveys were provided to all U.S. Landsat imagery users who were registered with USGS and a large sample of international Landsat users were also invited. However, many changes have occurred, and many Landsat users are not registered with USGS, but instead access Landsat imagery through a variety of cloud servers. The current and future user requirements for sensor and satellite attributes information from this user group has not been collected and is essential for future satellite decision-making within the NLI program. All Landsat users who participate during Earth observation capacity-building workshops will be invited to take part in the survey.

To protect the confidentiality and privacy of survey respondents, the data from the survey will not be associated with any respondent's email address at any time and will only be analyzed and reported in aggregate. All files containing PII will be password-protected, housed on secure USGS servers, and only accessible to the research team. The data from the survey will be aggregated and statistically analyzed and the results will be published in publicly available USGS reports.

Title of Collection: Current and Future Landsat User Requirements.

OMB Control Number: 1028–0123.

Form Number: None.

Type of Review: Renewal of a previously approved collection.

Respondents/Affected Public: General public.

Total Estimated Number of Annual Respondents: 11,660.

Total Estimated Number of Annual Responses: 11,660.

Estimated Completion Time per Response: 20 minutes on average. We estimate that it will take 20 minutes per person to complete the full survey and 5 minutes per person to complete the non-response survey.

Total Estimated Number of Annual Burden Hours: 3,335.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: There are no ''non-hour cost'' burdens associated with this collection of information.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Timothy Newman,

Program Coordinator, National Land Imaging Program, US Geological Survey.

[FR Doc. 2020–25375 Filed 11–17–20; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau Of Land Management

[LLORB07000.L17110000.AL0000. LXSSH1060000.20X.HAG 20–0060]

Notice of Meeting for the Steens Mountain Advisory Council's Public Lands Access Subcommittee, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of teleconference meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management's (BLM) Steens Mountain Advisory Council's (SMAC) Public Lands Access Subcommittee will meet as indicated below.

DATES: The Public Lands Access Subcommittee of the SMAC will hold a teleconference meeting on Wednesday, December 16, 2020, from 11:00 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held via teleconference. The final agenda and meeting access information will be available on the SMAC website no later than November 16, 2020, at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/oregon-washington/steens-mac.*

FOR FURTHER INFORMATION CONTACT: Tara Thissell, Public Affairs Specialist, 28910 Highway 20 West, Hines, Oregon 97738; 541–573–4519; *tthissell@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The SMAC was established August 14, 2001, pursuant to the Steens Mountain Cooperative Management and Protection Act of 2000 (Steens Act) (Pub. L. 106–399). The SMAC provides recommendations to the BLM regarding new and unique approaches to management of the land within the bounds of the Steens Mountain Cooperative Management and Protection Area (CMPA); recommends cooperative programs and incentives for landscape management that meet human needs; and advises the BLM on potential maintenance and improvement of the ecological and economic integrity of the area.

The SMAC's Public Lands Access Subcommittee was established in 2015 and serves to research, discuss, and evaluate any public access issue in the Steens Mountain CMPA. Issues may relate to parking, hiking, motorized or non-motorized use, public to private land inholding routes and methods of travel, private to public land access by way of easement or other agreement, or purchase or exchange of public and private land for improved access and contiguous landscape. The Subcommittee reviews all aspects of any access issue, formulates suggestions for remedy, and proposes those solutions to the entire SMAC for further discussion and possible recommendation to the BLM.

The December 16 agenda includes an update from the Designated Federal Officer; discussion on the SMAC's definition of ''reasonable access''; an update on the Nature's Advocate Inholder Access Environmental Assessment (EA); a discussion on the Pike Creek Parking Area EA; information sharing about Travel Management Planning for the Steens Mountain area; and an opportunity for Subcommittee members to share information from their constituents and present research. Any other matters that may reasonably come before the Subcommittee may also be included.

A public comment period is available at 2:30 p.m. Depending on the number of people wishing to comment and the time available, the amount of time for oral comments may be limited. Sessions may end early if all business items are accomplished ahead of schedule, or may be extended if discussions warrant more time. All meetings, including this Zoom videoconference, are open to the public in their entirety.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comments, please 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.

Authority: 43 CFR 1784.4–2.

Jeff Rose,

District Manager.

[FR Doc. 2020–25366 Filed 11–17–20; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–31168; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before November 7, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by December 3, 2020.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before November 7, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers:

Key: State, County, Property Name, Multiple Name (if applicable), Address/Boundary, City, Vicinity, Reference Number.

DISTRICT OF COLUMBIA

District of Columbia

All Souls Church, Unitarian, 1500 Harvard St. NW, Washington, SG100005905

GEORGIA

Fulton County

F.H. Ross & Company Laundry Warehouse, 833 Memorial Dr., Atlanta, SG100005906

KENTUCKY

Madison County

Berea Downtown Commercial and Residential Historic District, Roughly bounded by Chestnut St. (300–400), North Broadway St. (100–200), Adams St. (200), Parkway Ave. (100), Pasco St. (100), and Bond St., Berea, SG100005909

MARYLAND

Frederick County

Brandenburg, Henry, House, 9057 Myersville Rd., Myersville vicinity, SG100005908

NEW YORK

Broome County

Chenango Canal Prism, Towpath and Lock 106 (Historic and Engineering Resources of the Chenango Canal MPS) Cty. Rd. 79 and Cty. Rd. 32 (Stillwater Road) Chenango Forks, MP100005922

Chenango County

Chenango Canal Prism, Towpath and Lock 106 (Historic and Engineering Resources of the Chenango Canal MPS) Cty. Rd. 79 and Cty. Rd. 32 (Stillwater Road) Chenango Forks vicinity, MP100005922

Erie County

Lafayette Flats, 115–135 Lafayette Ave., Buffalo, SG100005913

Our Mother of Good Counsel Roman Catholic Church Complex, 3688 South Park Ave. and 15 Oakwood Ave., Blasdell, SG100005914

Niagara Lithograph Company, 1050 Niagara St., Buffalo, SG100005920

Onondaga County

Foster-Hubbard House, 678 West Onondaga St., Syracuse, SG100005915

Westchester County

Zion Episcopal Church, 55 Cedar St., Dobbs Ferry, SG100005921

TEXAS

Brewster County

Gage Hotel, 102 NW 1st St. (US 90 West) Marathon, SG100005910

VERMONT

Addison County

Salisbury Village Blacksmith Shop, 925 Maple St., Salisbury, SG100005912

VIRGINIA

Mecklenburg County

Chase City Warehouse and Commercial Historic District, North Main, East 5th, West 4th, East 2nd, and East Sycamore Sts., Chase City, SG100005923

WISCONSIN

Sheboygan County

Siebken's Resort, 284 South Lake St., 285 Victorian Village Dr., and 253 South east St., Elkhart Lake, SG100005907

A request for removal has been made for the following resources:

MAINE

Androscoggin County

Cushman Tavern, 430 Ridge Rd. and 921 Middle St., Lisbon vicinity, OT79000125

Cumberland County

Friends School, 9 Leach Hill Rd., Casco, OT96000650

Penobscot County

Kingman, Romanzo, House, East side of ME170 between Cross St. and Station Ln., Kingman, OT82000775

Piscataquis County

Straw House, 11 Golda Ct., Guilford, OT82000776

Additional documentation has been received for the following resources:

TENNESSEE

Loudon County

Hackney Chapel AME Zion Church (Additional Documentation) (Rural African-American Churches in Tennessee MPS) Hackney Chapel Rd., Lenoir City vicinity, AD00000729

VIRGINIA

Bedford County

Bellevue Rural Historic District (Additional Documentation) Bellevue Rd., Forest, AD05001345

Authority: Section 60.13 of 36 CFR part 60.

Dated: November 10, 2020.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2020–25424 Filed 11–17–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2020–0059]

Notice of availability of the Proposed Notice of Sale for Gulf of Mexico Outer Continental Shelf Region-Wide Oil and Gas Lease Sale 257

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of availability of the Proposed Notice of Sale for Gulf of Mexico Outer Continental Shelf Region-wide Oil and Gas Lease Sale 257.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) announces the availability of the Proposed Notice of Sale (NOS) for the proposed Gulf of Mexico (GOM) Outer Continental Shelf (OCS) Region-wide Oil and Gas Lease Sale 257 (GOM Region-wide Sale 257). BOEM is publishing this Notice pursuant to its regulatory authority. With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to Section 19 of the Outer Continental Shelf Lands Act, provides governors of affected states the opportunity to review and comment on the Proposed NOS. The Proposed NOS describes the proposed size, timing, and location of the sale, including lease stipulations, terms and conditions, minimum bids, royalty rates, and rental rates.

DATES: Governors of affected states may comment on the size, timing, and location of proposed GOM Region-wide Sale 257 within 60 days following their receipt of the Proposed NOS. BOEM will publish the Final NOS in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for March 17, 2021.

ADDRESSES: The Proposed NOS for GOM Region-wide Sale 257 and Proposed NOS Package containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394; telephone: (504) 736–2519. The Proposed NOS and Proposed NOS Package also are available for downloading or viewing on BOEM's website at *http://www.boem.gov/Sale-257/.*

FOR FURTHER INFORMATION CONTACT: S. Erin O'Reilly Vaughan, Chief, Leasing and Financial Responsibility, Office of Leasing and Plans, 504–736–1759, *Susan.Erin.OReilly.Vaughan@boem.gov* or Wright Jay Frank, Chief, Leasing

Policy and Management Division, 703–787–1325, *Wright.Frank@boem.gov.*

Authority: 43 U.S.C. 1345 and 30 CFR 556.304(c).

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2020–25518 Filed 11–17–20; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Sponge or Foam Products, DN 3506;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Abundant Freedom LLC on November 10, 2020. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sponge or foam products. The complaint names as respondents: Guangzhou Rantion Technology Co., Ltd. of China; Song Deqi of China; Ya'nam Lin of China; and Yiwu Thousand Shores E-Commerce Co. Ltd. of China. The complainant requests that the Commission issue a general exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3506'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel [2], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*

[2] All contract personnel will sign appropriate nondisclosure agreements.

inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

Issued: November 12, 2020.

By order of the Commission.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–25378 Filed 11–17–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1230]

Certain Electric Shavers and Components and Accessories Thereof; Institution of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 13, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Skull Shaver, LLC of Moorestown, New Jersey. A supplement was filed on October 29, 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 electric shavers and components and accessories thereof by reason of infringement of certain claims of U.S. Patent No. 8,726,528 (''the '528 patent'') and U.S. Patent No. D672,504 (''the '504 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, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* 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.*

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 November 12, 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 '528 patent and the claim of the '504 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 ''handheld electric head and body shavers and their components and accessories'';

(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:

Skull Shaver, LLC, 1503 Glen Avenue, Suite 160, Moorestown, NJ 08057–1144

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Rayenbarny Inc., 299 Park Avenue, Floor 6, New York, NY 10171

Bald Shaver Inc., 540 King Street W, Toronto, Ontario, Canada, M5V 1M3

Suzhou Kaidiya Garments Trading Co., Ltd., d.b.a. ''Digimator'', Room 50, Building 16–52, Shihui Fang Industrial Park, Suzhou, Jiangsu, 215000, China

Shenzhen Aiweilai Trading Co., Ltd., d.b.a. ''Teamyo'', Room 302, Building 39, Shuiwei No.1, Minzhi Street, Longhua New District, Shenzhen, Guangdong, 518000, China

Wenzhou Wending Electric Appliance Co., Ltd., 502, Building 8, West Street, Lecheng Street, Yueqing City, Zhejiang Province, 325600, China

Shenzhen Nukun Technology Co., Ltd., d.b.a. ''OriHea'', A2–405, Zhongbaotong Technology Park, No. 34, Changfa West Road, Wuhe Metro Station, Longgang District, Shenzhen, Guangdong, 518000, China

Yiwu Xingye Network Technology Co. Ltd., d.b.a. ''Roziapro'', Choujiang Street, Chengzhongxilu No.93, Yiwu, Zhejiang, 322000, China

Magicfly LLC, Room 1501, Grand Millennium Plaza, Lower Blk, 181 Queen's Road, Center Hong Kong

Yiwu City Qiaoyu Trading Co., Ltd., 401, 2 Hao, 33 Zhuang Duyuan Cun, Houzhai, Jiedao, Yiwu, Zhejiang, 322000, China

Shenzhen Wantong Information Technology Co., Ltd., d.b.a. ''WTONG'', B1330, Chuangwei Chuangxin Valley, No. 8, Tangtou No.1 Road, Tangtou Community, Shiyan Street, Baoan District, Shenzhen, Guangdong, 518000, China

Shenzhen Junmao International Technology Co., Ltd., d.b.a. ''Homeasy'', Minle Gongyeyuan Erdong 401, Longhua Xinqu Minzhi Jiedao, Shenzhen, Guangdong, 518000, China

(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), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov*

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: November 12, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–25377 Filed 11–17–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1217]

Commission Determination Not To Review an Initial Determination Terminating the Investigation as to Respondents East West Manufacturing, LLC and East West Industries Based on a Consent Order Stipulation; Issuance of Consent Order and Termination of the Investigation; Certain Blowers and Components Thereof

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 6) of the presiding administrative law judge (''ALJ'') terminating the investigation with respect to respondents East West Manufacturing, LLC and East West Industries (collectively, ''Respondents'') based on a consent order stipulation. The Commission has entered a consent order and terminated the investigation in its entirety.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 8, 2020, based on a complaint filed on behalf of Regal Beloit America, Inc (''Regal'') of Beloit, Wisconsin. 85 FR 55491–92 (Sep. 8, 2020). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain blowers and components thereof by reason of infringement of one or more of claims 1, 2, 7–10, and 15 of U.S. Patent No. 8,079,834. *Id.* at 55492. The complaint further alleges that a domestic industry exists. *Id.* at 55491. The Commission's notice of investigation named as respondents: East West Manufacturing, LLC of Atlanta, Georgia and East West Industries of Binh Duong, Vietnam. *Id.* at 55492. The Office of Unfair Import Investigations did not participate as a party. *Id.*

On October 14, 2020, Respondents filed a motion to terminate the investigation with respect to themselves based upon a consent order stipulation. The motion included a consent order stipulation and a proposed consent order.

On October 22, 2020, the ALJ issued the subject ID, granting the motion and terminating the investigation with respect to Respondents based on the entry of a consent order. Order No. 6 at 3 (Oct. 22, 2020). The ID found that the consent order stipulation and proposed consent order complied with Commission Rule 210.21(c)(3) and (4) (19 CFR 210.21(c)(3) and (4)). *Id.* at 1–3. The ID also found that termination of the investigation with respect to Respondents would not be contrary to the public interest. *Id.* at 3. No petitions for review of the ID were received.

The Commission has determined not to review the subject ID and to issue a consent order. Respondents are hereby terminated from the investigation. The investigation is terminated in its entirety.

The Commission vote for this determination took place on November 12, 2020.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: November 12, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–25376 Filed 11–17–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–639–642 and 731–TA–1475–1492 (Final)]

Common Alloy Aluminum Sheet From Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey; Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–639–642 and 731–TA–1475–1492 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of common alloy aluminum sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey, provided for in statistical reporting numbers 7606.11.3060, 7606.11.6000, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be sold at less-than-fair-value, and subsidized by the Governments of Bahrain, Brazil, India, and Turkey.

DATES: October 15, 2020.

FOR FURTHER INFORMATION CONTACT: Stamen Borisson ((202) 205–3125), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as ''common alloy aluminum sheet, which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy sheet within the scope {of these investigations} includes both not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core. The use of a proprietary alloy or non-proprietary alloy that is not specifically registered by the Aluminum Association as a discrete 1XXX-, 3XXX-, or 5XXX-series alloy, but that otherwise has a chemistry that is consistent with these designations, does not remove an otherwise in-scope product from the scope . . . Excluded from the scope {of these investigations} is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans.'' For Commerce's complete scope and tariff treatment, see 85 FR 65372, October 15, 2020.

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that imports of common alloy aluminum sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b) and that certain benefits which constitute subsidies within the meaning of § 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Bahrain, Brazil, India, and Turkey. The investigations were requested in petitions filed on March 9, 2020, by The Aluminum Association Common Alloy Aluminum Sheet Working Group and its Individual Members, Aleris Rolled Products, Inc., Beachwood, Ohio; Arconic, Inc., Bettendorf, Iowa; Constellium Rolled Products Ravenswood, LLC, Ravenswood, West Virginia; JW Aluminum Company, Daniel Island, South Carolina; Novelis Corporation, Atlanta, Georgia; and Texarkana Aluminum, Inc., Texarkana, Texas.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on February 11, 2021, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on March 2, 2021. Information about the place and form of the hearing, including about how to participate in and/or view the hearing, will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.* Interested parties should check the Commission's website periodically for updates. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before February 22, 2021. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held at 9:30 a.m. on March 1, 2021. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is February 19, 2021. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing

briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 9, 2021. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before March 9, 2021. On March 24, 2021, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 26, 2021, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.
Issued: November 13, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–25423 Filed 11–17–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–NEW]

Agency Information Collection Activities; Proposed Collection; Comments Requested; FOIAXpress Public Access Link

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until January 19, 2021.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, telephone: (703) 305–0289.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Executive Office for Immigration Review, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* New collection.
2. *The Title of the Form/Collection:* FOIAXpress Public Access Link.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No agency form, electronic collection. The applicable component within the Department of Justice is the Office of the General Counsel, Executive Office for Immigration Review.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Members of the public seeking to obtain records from the Executive Office for Immigration Review (EOIR). Abstract: This information collection is necessary to communicate with the requester community regarding agency record requests and deliver agency records subject to disclosure to the requester community.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 33,984 respondents will complete FOIA requests via FOIAXpress with an average of 3 minutes per response.
6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,699 total annual burden hours associated with this collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: November 13, 2020.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–25460 Filed 11–17–20; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of an Extended Benefit (EB) Program for Florida, Tennessee, and Wisconsin

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

This notice announces a change in benefit period eligibility under the EB

program for Florida, Tennessee, and Wisconsin.

The following changes have occurred since the publication of the last notice regarding the State's EB status:

- Florida's 13-week insured unemployment rate (IUR) for the week ending October 17, 2020, was 4.74 percent, falling below the 5.00 percent threshold necessary to remain ''on'' EB. Therefore, the EB period for Florida ends on November 7, 2020. The state will remain in an ''off'' period for a minimum of 13 weeks.
- Tennessee's 13-week insured unemployment rate (IUR) for the week ending October 17, 2020, was 4.84 percent, falling below the 5.00 percent threshold necessary to remain ''on'' EB. Therefore, the EB period for Tennessee ends on November 7, 2020. The state will remain in an ''off'' period for a minimum of 13 weeks.
- Wisconsin's 13-week insured unemployment rate (IUR) for the week ending October 17, 2020, was 4.87 percent, falling below the 5.00 percent threshold necessary to remain ''on'' EB. Therefore, the EB period for Wisconsin ends on November 7, 2020. The state will remain in an ''off'' period for a minimum of 13 weeks.

Information for Claimants

The duration of benefits payable in the EB Program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the state by the U.S. Department of Labor. In the case of a state ending an EB period, the State Workforce Agency will furnish a written notice to each individual who is currently filing claims for EB of the forthcoming termination of the EB period and its effect on the individual's right to EB (20 CFR 615.13(c)).

FOR FURTHER INFORMATION CONTACT: U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S–4524, Attn: Thomas Stengle, 200 Constitution Avenue NW, Washington, DC 20210, telephone number (202) 693–2991 (this is not a toll-free number) or by email: *Stengle.Thomas@dol.gov.*

Signed in Washington, DC.

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–25398 Filed 11–17–20; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of the Federal Unemployment Tax Act (FUTA) Credit Reduction Applicable in 2020

Sections 3302(c)(2)(A) and 3302(d)(3) of the FUTA provide that employers in a state that has outstanding advances under Title XII of the Social Security Act on January 1 of two or more consecutive years are subject to a reduction in credits otherwise available against the FUTA tax for the calendar year in which the most recent such January 1 occurs, if advances remain on November 10 of that year. Further, Section 3302(c)(2)(C) of FUTA provides for an additional credit reduction for a year if a state has outstanding advances on five or more consecutive January 1 and has a balance on November 10 for such years. Section 3302(c)(2)(C) also provides for waiver of this additional credit reduction and substitution of the credit reduction provided in Section 3302(c)(2)(B) if a state meets certain conditions.

Employers in the U.S. Virgin Islands (USVI) were potentially liable for the additional credit reduction under Section 3302(c)(2)(C) of FUTA. The jurisdiction applied for the waiver of this additional credit reduction. The Employment and Training Administration determined that USVI met all of the criteria of the section necessary to qualify for the waiver of the additional credit reduction. Therefore employers in USVI will have no additional credit reduction applied for calendar year 2020. However, as a result of having outstanding advances on each January 1 of 2010 through 2020, which had outstanding balances on November 10, 2020, employers in USVI are subject to a FUTA credit reduction of 3.0 percent in 2020.

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–25397 Filed 11–17–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''*BLS Occupational Safety and Health Statistics (OSHS) Cooperative Agreement Application Package.*'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before January 19, 2021.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, telephone number 202–691–7628 (this is not a toll free number.) (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Labor has delegated to the BLS the authority to collect, compile, and analyze statistical data on work-related injuries and illnesses, as authorized by the Occupational Safety and Health Act of 1970 (Pub. L. 91–596). The Cooperative Agreement is designed to allow the BLS to ensure conformance with program objectives. The BLS has full authority over the financial operations of the statistical program. The existing collection of information allows Federal staff to negotiate the Cooperative Agreement with the State Grant Agencies and monitor their financial and programmatic performance and adherence to administrative requirements imposed by the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*

(2 CFR 200) and other grant related regulations. The information collected also is used for planning and budgeting at the Federal level and in meeting Federal reporting requirements. The BLS requires financial reporting that will produce the information that is needed to monitor the financial activities of the BLS Occupational Safety and Health Statistics grantees.

The Cooperative Agreement application package being submitted for approval is representative of the package sent every year to state agencies. The work statements included in the Cooperative Agreement application also are representative of what is included in the whole OSHS Cooperative Agreement package. The final Cooperative Agreement, including the work statements, will be submitted separately to the Office of Management and Budget for review of any minor year-to-year information collection burden changes they may contain.

II. Current Action

Office of Management and Budget clearance is being sought for the OSHS Cooperative Agreement application package.

III. Desired Focus of Comments

The BLS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: BLS Occupational Safety and Health Statistics (OSHS) Cooperative Agreement Application Package.

OMB Number: 1220–0149.

Type of Review: Extension of a currently approved collection.

Affected Public: State, Local, or Tribal Governments.

Activity	Number of respondents	Number of responses	Total responses	Average burden	Total burden (hours)
Work Statements	56	1	56	2	112
BLS–OSHS2	56	4	224	1	224
BLS–OSHS TCF	56	1	56	8/60	7.5
OSHS Budget Variance Request Form	20	1	20	15/60	5
BLS–OSHS FRW–A: Base Programs	56	1	56	25/60	23.3
BLS–OSHS FRW–B: AAMC	5	1	5	25/60	2.1
BLS–OSHS Property Listing	28	1	28	25/60	11.7
Total	56		445		386

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 12th day of November 2020.

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2020–25421 Filed 11–17–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''*Labor Market Information (LMI) Cooperative Agreement Application Package.*'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before January 19, 2021.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, telephone number 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The BLS enters into Cooperative Agreements with State Workforce Agencies (SWAs) annually to provide financial assistance to the SWAs for the production and operation of the following LMI statistical programs: Current Employment Statistics, Local Area Unemployment Statistics, Occupational Employment Statistics, and Quarterly Census of Employment and Wages. The Cooperative Agreement provides the basis for managing the administrative and financial aspects of these programs.

The existing collection of information allows Federal staff to negotiate the Cooperative Agreement with the SWAs and monitor their financial and programmatic performance and adherence to administrative

requirements imposed by the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (2 CFR 200) and other grant related regulations. The information collected also is used for planning and budgeting at the Federal level and in meeting Federal reporting requirements.

The Cooperative Agreement application package being submitted for approval is representative of the package sent every year to state agencies. The work statements included in the Cooperative Agreement application also are representative of what is included in the whole LMI Cooperative Agreement package. The final Cooperative Agreement, including the work statements, will be submitted separately to the Office of Management and Budget for review of any minor year-to-year information collection burden changes they may contain.

II. Current Action

Office of Management and Budget clearance is being sought for the LMI Cooperative Agreement application package.

III. Desired Focus of Comments

The BLS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: Labor Market Information (LMI) Cooperative Agreement Application Package.

OMB Number: 1220–0079.

Type of Review: Revision of a currently approved collection.

Affected Public: State, Local, or Tribal Governments.

Frequency: Monthly, quarterly, annually.

Activity	Number of respondents	Number of responses	Total responses	Average burden	Total burden (hours)
Work Statements	54	1	54	1.5	81
BIF LMI 1A	54	1	54	3.5	189
BIF LMI 1B	15	1	15	3.5	52.5
Quarterly Automated Financial Reports	48	4	192	30/60	96
Monthly Automated Financial Reports	48	*8	384	15/60	96
BLS Cooperative Statistics Financial Reports	7	12	84	3	252
Quarterly Status Report (LMI 2B)	15	4	60	1	60
Budget Variance Request Form	27	1	27	15/60	6.8
Transmittal and Certification Form	54	1	54	8/60	7.2
FRW—A: Base Programs	54	1	54	25/60	22.5
FRW—B: AAMC	15	1	15	25/60	6.2
Property Listing	27	1	27	25/60	11.2
Total	54		1,020		881

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 12th day of November 2020.

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2020–25420 Filed 11–17–20; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–205, 361, and 362; NRC–2020–0254]

Southern California Edison; San Onofre Nuclear Generating Station, Units 1, 2, and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff is issuing an exemption in response to a request dated September 1, 2020, from the Southern California Edison (SCE), for San Onofre Nuclear Generating Station, Units 1, 2, and 3 (SONGS), from the requirement to investigate and report to the NRC when SCE does not receive notification of receipt of a shipment, or part of a shipment, of low-level radioactive waste within 20 days after transfer from the SONGS facility. SCE requested the time period to receive acknowledgement that the shipment has been received by the intended recipient be extended from 20 to 45 days. SCE requested this change to avoid an excessive administrative burden, because its operational experience indicates that these shipments may take more than 20 days to reach their destination.

DATES: The exemption was issued on November 13, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0254 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–2020–0254. Address questions about 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.
- *The 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.

• *Attention:* The PDR, where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at *PDR.Resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Amy M. Snyder, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6822, email: *Amy.Snyder@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: November 13, 2020.

For the Nuclear Regulatory Commission.

Bruce 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. 50–205, 361, and 362

Southern California Edison

San Onofre Nuclear Generating Station, Unit 1, 2, and 3

Exemption From Certain Low-Level Waste Shipment Tracking Requirements of 10 CFR Part 20, Appendix G, Section III.E

I. Background

San Onofre Nuclear Generating Station (SONGS), Units 1, 2, and 3, are licensed to the Southern California Edison (SCE) [1] under title 10 of the *Code of Federal Regulations* (10 CFR) part 50 (license No. DPR–13, NPF–10, and NPF–15, respectively, and docket Nos. 50–206, 50–361, and 50–362, respectively). The SONGS facility is located 4 miles southeast of San Clemente, California, in San Diego County, California. SONGS Units 1, 2 and 3, are decommissioning nuclear power reactor units located in San Diego County, California, approximately 62 miles southeast of Los Angeles, and approximately 51 miles northwest of San Diego, on an 84-acre site located entirely within the Camp Pendleton Marine Corps Base.

Unit 1, a Westinghouse 3-loop pressurized water reactor constructed by Bechtel and rated at 1,347 MWt, began commercial operation on January 1, 1968, and permanently ceased operation on November 30, 1992. The unit was initially placed in SAFSTOR until 2000 when active decommissioning (DECON) began.

SONGS, Unit 1, was granted its provisional operating license by the U.S. Nuclear Regulatory Commission (NRC) on January 1, 1968 and ceased operation on November 30, 1992. The licensee completed defueling on March 6, 1993 (ADAMS Accession No. ML13319B055), and maintained the unit in deferred decontamination, or SAFSTOR, until June 1999, when it initiated active decommissioning and dismantlement, or DECON (ADAMS Accession No. ML13319B111). On December 28, 1993 (ADAMS Accession No. ML13319B059), the NRC approved the Permanently Defueled Technical Specifications for SONGS, Unit 1. SCE submitted the proposed Decommissioning Plan for SONGS, Unit 1, on November 3, 1994 (ADAMS Accession No. ML13319B073).

As a result of the 1996 revision to the regulations in 10 CFR 50.82, ''Termination of license,'' the NRC replaced the requirement for a decommissioning plan with a requirement for a Post Shutdown Decommissioning Activities Report (PSDAR). On August 28, 1996, the SONGS 1 Decommissioning Plan became the SONGS 1 PSDAR (61 FR 67079; December 19, 1996). On December 15, 1998 (ADAMS Accession No. ML13184A353), SCE submitted an update to the PSDAR to the NRC, as required by 10 CFR 50.82(a)(7), in order to begin planning for the dismantlement and decommissioning of SONGS, Unit 1. Dismantlement of SONGS, Unit 1, was essentially completed by 2009 and most of the structures have been removed and sent to a nuclear waste disposal facility. Certain below-grade structures were abandoned in place and any void spaces filled. SCE then constructed the original approved ISFSI for the temporary storage of SONGS Unit 1 SNF. SCE elected to address decommissioning of these remaining remnants until after all SNF has been removed and the approved ISFSI can be demolished. NRC issued a license amendment in 2010 releasing the offshore portions of the Unit 1 cooling intake and outlet pipes under the Pacific Ocean seabed, leaving them in place for unrestricted use. SONGS Unit 1 decommissioning work yet to be completed includes the demolition of the Unit 1 share of the ISFSI after the SNF is removed. All SONGS Unit 1 fuel (except for 270-unit 1 spent fuel assemblies that were shipped to GE-Hitachi in Morris, Illinois between period from 1972 to 1980 for wet storage) are in dry storage at the onsite ISFSI. The NRC previously approved Technical Specifications that reflect the transfer of all SONGS, Unit 1, spent fuel into dry storage (ADAMS Accession No. ML042660363).

Units 2 and 3 reactors are Combustion Engineering (CE) 2-loop pressurized water reactors designed by Bechtel and rated at 3,438 Megawatt thermal (MWt) (1070/1080 Megawatt electric (MWe)). In February and November 1982, NRC granted operating licenses for Units 2 and 3. Units 2 and 3 began operations in August 1983 and April 1984, respectively. SONGS Units 2 and 3 were shut down in January 2012 due to issues with the replacement steam generators.

By letter dated June 12, 2013 (ADAMS Accession No. ML131640201) SCE submitted a certification to the NRC indicating its intention to permanently cease power operations at SONGS, Units 2 and 3, as of June 7, 2013, pursuant to 10 CFR 50.82(a)(1)(i). By letters dated June 28, 2013 (ADAMS Accession No. ML13183A391), and July 22, 2013 (ADAMS Accession No. ML13204A304), SCE submitted permanent removal of fuel certifications, pursuant to 10 CFR 50.82(a)(1)(ii), for the Unit 3 and Unit 2 reactor vessels on October 5, 2012, and July 18, 2013, respectively. Upon docketing of these certifications, the SONGS, Units 2 and 3, facility operating licenses no longer authorize operation of the reactors or emplacement or retention of fuel into the reactor vessels pursuant to 10 CFR 50.82(a)(2). By letter dated September 23, 2014 (ADAMS Accession No. ML14272A121), SCE submitted the PSDAR for SONGS, Units 2 and 3. The PSDAR outlined the decommissioning activities for SONGS, Units 2 and 3. The NRC staff reviewed the PSDAR in a letter dated August 20, 2015 (ADAMS Accession No. ML15204A383).

By application dated December 15, 2016 (ADAMS Accession No. ML16355A014), the licensee requested changes to the SONGS Facility Operating Licenses and Technical Specifications to reflect the removal of all spent nuclear fuel from the SONGS, Units 2 and 3, spent fuel pools and their transfer to dry cask storage within an expanded onsite ISFSI. The changes

[1] SONGS is jointly owned by SCE (78.21 percent), San Diego Gas & Electric (20 percent), and the city of Riverside (1.79 percent). SCE is authorized to act as agent for the other co-owners and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility.

also make conforming revisions to the SONGS, Unit 1, Technical Specifications and combine them with the SONGS, Units 2 and 3, Technical Specifications. These changes more fully reflect the current status of the facility, as well as the reduced scope of structures, systems, and components necessary to ensure plant safety once all spent fuel has been permanently moved to the SONGS ISFSI, an activity that was completed in August 2020. By letter dated August 7, 2020 (ADAMS Accession No. ML20227A044), SCE certified that all spent nuclear fuel assemblies were permanently transferred out of the SONGS spent fuel pool and placed in storage within the onsite ISFSI.

On May 7, 2020, SCE submitted a revised PSDAR and Irradiated Fuel Management Plan for the SONGS Units 2 and 3 in accordance with 10 CFR 50.82(a)(7) (ADAMS Accession No. ML20136A339). The NRC staff reviewed this submittal and had no further comments (ADAMS Accession No. ML20267A526). By the end of 2028, the licensee is expected to complete all decommissioning work necessary to obtain NRC approval to reduce the Part 50 license site footprint to the ISFSI area only and to allow partial release of the SONGS site for unrestricted future use.

Inherent to the decommissioning process, large volumes of low-level radioactive waste are generated. This low-level waste requires processing and disposal or only disposal. SCE will transport, by truck or by mixed mode shipments like a combination of truck and rail, low-level radioactive waste from the facility to locations such as the waste disposal facility operated by Waste Control Specialists in Andrews, Texas and the one operated by Energy Solutions in Clive, Utah. The estimated license termination date for SONGS Units 2 and 3, except for the ISFSI, is 2030. The site restoration activities will be completed by 2033. The licensee projects that all decommissioning activities, to include the remnants of Unit 1, will be completed by 2051, approximately 2 years after the removal of the last spent fuel from the SONGS ISFSI (ADAMS Accession No. ML20136A339).

II. Request/Action

By letter dated September 1, 2020 (ADAMS Accession No. ML20255A083), SCE requested an exemption from 10 CFR part 20, appendix G, ''Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests,'' section III.E. for transfers of low-level radioactive waste from the SONGS facility.

Section III.E requires that the shipper of any low-level radioactive waste to a licensed land disposal or processing facility must investigate and trace the shipment if the shipper has not received notification of the shipment's receipt by the disposal or processing facility within 20 days after transfer. In addition, section III.E requires licensees to report such investigations to the NRC. SCE is specifically requesting an exemption from the requirements in 10 CFR part 20, appendix G, section III.E, under the provisions of 10 CFR 20.2301, ''Applications for exemptions.'' SCE seeks to extend the 20 day time period for SCE to receive notification that the shipment was received to 45 days after transfer for a rail or mixed mode shipment from SONGS facility to the intended recipient, before having to investigate and report such shipments to the NRC.

III. Discussion

A. The Exemption Is Authorized by Law

The NRC's regulations in 10 CFR 20.2301 allow the Commission to grant exemptions from the requirements of the regulations in 10 CFR part 20 if it determines the exemption would be authorized by law and would not result in undue hazard to life or property. There are no provisions in the Atomic Energy Act of 1954, as amended (or in any other Federal statute) that impose a requirement to investigate and report on low-level radioactive waste shipments that have not been acknowledged by the recipient within 20 days of transfer. Therefore, the NRC staff concludes that there is no statutory prohibition on the issuance of the requested exemption and the NRC is authorized to grant the exemption by law.

B. The Exemption Presents No Undue Hazard to Life and Property

The purpose of 10 CFR part 20, appendix G, section III.E is to require licensees to investigate, trace, and report radioactive shipments that have not reached their destination, as scheduled, for unknown reasons.

SCE states that ''[I]t has been It has been SONGS's experience, similar to those at other decommissioning facilities that have shipped large quantities of waste to offsite disposal facilities, that rail shipments can routinely take longer than 20 days for various reasons that cannot be anticipated nor avoided.'' The NRC staff notes a past example of a planned shipment from SONGS that would exceed 20 days in which a one-time exemption from the investigation and reporting requirements of 10 CFR part 20, appendix G, section III.E was granted (ADAMS Accession No. ML031400384). The NRC staff also notes that the Unit 1 reactor pressure vessel low level waste shipment to Clive, UT took more than 20 days (ADAMS Accession No. ML20188A388). In addition, SCE reported on October 16, 2020, as required by 10 CFR part 20, Appendix G, Section III.A.9, that a low-level waste shipment had not been received in 20 days due to rail scheduling. Based on these past reports, the NRC staff concludes that delays due to rail scheduling are likely to recur.

Further, SCE states that the requested exemption ''. . . is similar to the ones previously approved by the NRC, namely: Fort Calhoun Station on June 30, 2020 (ref. ML20162A155), Vermont Yankee Nuclear Power Station on February 5, 2020 (ref. ML20017A069), La Crosse Boiling Water Reactor facility on May 2, 2017 (ref. ML17124A210), and Zion Nuclear Power Station Units 1 and 2 on January 30, 2015 (ref. ML15008A417).'' The NRC staff reviewed these other exemption requests and notes that all of the facilities noted above are reactors facilities undergoing decommissioning. The NRC staff agrees that these exemption requests are similar to the exemption requested by SCE. In addition, SCE stated that ''the NRC staff in SECY–18–055, (ref. 1 and ML18012A022), has proposed rulemaking to amend 10 CFR 20, Appendix G, Section 111.E to allow a 45-day notification window based on operating experience that show this is a reasonable delay for low-level waste shipments.'' The NRC staff agrees that the proposed rulemaking that SCE references does propose to amend 10 CFR part 20, appendix G, Section 111.E to allow a 45-day notification window based on operating experience, which shows this is a reasonable delay for low-level waste shipments. The NRC staff agrees that a 45-day notification window based on operating experience is a reasonable delay for low-level waste shipments from reactor decommissioning facilities.

In its request, SCE stated that SCE takes actions during the preparation of shipments to predict and mitigate undesirable conditions as much as possible, encountered delays can often extend the shipping duration beyond the requisite 20 days. SCE states that exceeding the 20-day shipment duration results in an administrative burden. SCE states the burden is a result of the required investigations and reporting,

even though shipments continue to be under requisite controls.

SCE is in the process of decommissioning SONGS Units 2 & 3. During reactor decommissioning, large volumes of slightly contaminated debris are generated and require disposal. SCE will be transporting low-level radioactive waste from the SONGS facility to distant locations such as the waste disposal facility operated by Waste Control Specialists in Andrews, Texas and by Energy Solutions in Clive, Utah. SCE plans to ship most of the waste to these disposal facilities or intermediate processors via rail.

SCE indicated in its application that, due to the complex scheduling and congestion on the planned rail systems, delays beyond the estimated durations are often encountered after the waste leaves site. Rail shipments may sit at a remote railyard waiting for clearance to depart or for maintenance of a railcar in need of repair; either of which creates delays that can extend the estimated shipping durations from SONGS and are outside of the shipper's, (*i.e.,* SCE's) controls. Administrative processes at the disposal facility and mail delivery times can add several additional days.

Low-level radioactive waste shipments from the SONGS facility can take longer than 20 days to reach a waste disposal facility. The delay is not the result of loss, but a consequence of the complexity involved in shipping large components. In addition, the NRC staff is aware of shipping industry practices that could result in shipping durations exceeding 20 days due to issues not specifically related to the transport of large components, such as rail cars containing LLW in switchyards waiting to be included in a complete train to the disposal facility. According to SCE, ''in terms of potential effect on a member of the public, the number 1 cause of delays is coordination with the rail carriers. When these delays happen, the shipment is generally within a railyard and not near a member of the public or a public place. The only way a shipment would remain in a public place for an unusual amount of time is if there was a problem with the transport vehicle or the rail system.'' The NRC staff notes that the shipments are compliant with the Department of Transportation and NRC requirements for transportation of low-level radioactive packaging, placarding and radiation levels for health and safety purposes during transit including during switchyard staging. Furthermore, the shipments are under control of the shipper at all times, tracked by the licensee, and periodically monitored by the licensee, as needed. Therefore, there are no potential health and safety concerns associated with this material sitting in a switchyard for an extended period of time.

Based on the history of low-level radioactive waste shipments from SONGS and the lack of potential health and safety concerns associated with this material sitting in a switchyard for extended period of time, the need to investigate, trace and report on shipments that take longer than 20 days but not longer than 45 days is therefore inappropriate. The NRC staff believes that the application of 45 days as an upper bound is appropriate for the same reasons as presented in the proposed rulemaking (page 158, ML18012A022).

As indicated in the request for exemption, for rail shipments from SONGS, SCE will use a tracking system that allows daily monitoring of a shipments' progress to its destination and SONGS shipping procedures prescribe the expectations for tracking and communications during transit. The NRC staff believes these steps will allow for monitoring the progress of the shipments by the rail carrier on a daily basis, if needed, in lieu of the 20-day requirement and will initiate an investigation as provided for in Section III.E after 45 days. Because of the oversight and the ability to monitor low-level radioactive waste shipments throughout the entire journey from SONGS to a disposal or processing site noted above, the NRC staff concludes that it is unlikely that a shipment could be lost, misdirected, or diverted without the knowledge of the carrier or SCE and there is no potential health and safety concern presented by the requested exemption. Furthermore, by extending the elapsed time for receipt acknowledgment to 45 days before requiring investigations, tracing, and reporting, a reasonable upper limit on shipment duration is maintained if a breakdown of normal tracking systems were to occur.

Consequently, the NRC staff finds that extending the receipt of notification period from 20 to 45 days after transfer of the low-level radioactive waste as described by SCE in its September 1, 2020, letter would not result in an undue hazard to life or property.

C. The Exemption Is Subject to a Categorical Exclusion

With respect to compliance with Section 102(2) of the National Environmental Policy Act, 42 U.S.C. 4332(2) (NEPA), the NRC staff has determined that the proposed action, the approval of the SCE exemption request, is within the scope of the categorical exclusion listed at 10 CFR 51.22(c)(25). The proposed action presents (i) no significant hazards considerations; (ii) would not result in a significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) would not result in a significant increase in individual or cumulative public or occupational radiation exposure; (iv) has no significant construction impact; (v) does not present a significant increase in the potential for or consequences from radiological accidents. The requirements from which an exemption is sought involves reporting requirements under 10 CFR 51.22(c)(25)(vi)(B) as well as inspection or surveillance requirements under 10 CFR 51.22(c)(25)(vi)(C). Given the applicability of relevant categorical exclusions, no further analysis is required under NEPA.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.2301, the exemption is authorized by law and will not result in undue hazard to life or property. Therefore, effective immediately, the Commission hereby grants SCE an exemption from 10 CFR part 20, appendix G, section III.E to extend the receipt of notification period from 20 days to 45 days after transfer for rail or mixed-mode shipments of low-level radioactive waste from Units 1, 2, and 3 from the SONGS facility to a licensed land disposal or processing facility.

Dated at Rockville, Maryland, this 13th day of November.

For the Nuclear Regulatory Commission.

/RA/

Patricia K. Holahan,
Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2020–25446 Filed 11–17–20; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–26 and CP2021–26]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 20, 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:

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I. Introduction
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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 3011.301.[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 3030, and 39 CFR part 3040, 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 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2021–26 and CP2021–26; *Filing Title:* USPS Request to Add Priority Mail Contract 680 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 12, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 20, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–25426 Filed 11–17–20; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–182, OMB Control No. 3235–0237]

Proposed Collection for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Form N–54A

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Investment Company Act''), certain investment companies can elect to be regulated as business development companies, as defined in Section 2(a)(48) of the Investment Company Act (15 U.S.C. 80a–2(a)(48)). Under Section 54(a) of the Investment Company Act (15 U.S.C. 80a–53(a)), any company defined in Section 2(a)(48)(A) and (B) may elect to be subject to the provisions of Sections 55 through 65 of the Investment Company Act (15 U.S.C. 80a–54 to 80a–64) by filing with the Commission a notification of election, if such company has: (1) A class of equity securities registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''); or (2) filed a registration statement pursuant to Section 12 of the Exchange Act for a class of its equity securities. The Commission adopted Form N–54A (17 CFR 274.53) as the form for notification of election to be regulated as a business development company.

The purpose of Form N–54A is to notify the Commission that the investment company making the notification elects to be subject to Sections 55 through 65 of the Investment Company Act, enabling the Commission to administer those provisions of the Investment Company Act to such companies.

The Commission estimates that on average approximately 7 business development companies file these notifications each year. Each of those business development companies need only make a single filing of Form N–54A. The Commission further estimates that this information collection imposes a burden of 0.5 hours, resulting in a total annual PRA burden of 3.5 hours. Based on the estimated wage rate, the total cost to the business development company industry of the hour burden for complying with Form N–54A would be approximately $1,288.

The collection of information under Form N–54A is mandatory. The information provided by the form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

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.

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: November 12, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25351 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–186, OMB Control No. 3235–0186]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street, NE, Washington, DC 20549–2736

Revision:

Form N–8B–2

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form N–8B–2 (17 CFR 274.12) is the form used by unit investment trusts (''UITs'') other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor, to comply with the filing and disclosure requirements imposed by section 8(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(b)). Form N–8B–2 requires disclosure about the organization of a UIT, its securities, the personnel and affiliated persons of the depositor, the distribution and redemption of securities, the trustee or custodian, and financial statements. The Commission uses the information provided in the collection of information to determine compliance with section 8(b) of the Investment Company Act.

Each registrant subject to the Form N–8B–2 filing requirement files Form N–8B–2 for its initial filing and does not file post-effective amendments on Form N–8B–2.[1] The Commission staff estimates that approximately one respondent files one Form N–8B–2 filing annually with the Commission. Based on form amendments to include formatting and hyperlinking requirements to Form N–8B–2 arising from the adoption of the FAST Act release,[2] staff estimates that the burden for compliance with Form N–8B–2 is approximately 28 hours per filing.[3] The total hourly burden for the Form N–8B–2 filing requirement therefore is 28 hours in the aggregate (1 respondent × one filing per respondent × 28 hours per filing), at an internal cost burden of $9,912, and external cost burden of $10,300.

Estimates of the burden hours are made solely for the purposes of the PRA and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. The information provided on Form N–8B–2 is mandatory. The information provided on Form N–8B–2 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) 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.* 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.

Dated: November 12, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25353 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

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 12d2–2 and Form 25 [SEC File No. 270–86, OMB Control No. 3235–0080]

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 collections of information provided for in Rule 12d2–2 (17 CFR 240.12d2–2) and Form 25 (17 CFR 249.25) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval for

On February 12, 1935, the Commission adopted Rule 12d2–2 [1] and Form 25, under the Securities Exchange Act of 1934 (''Act''), to establish the conditions and procedures under which a security may be delisted from an exchange and withdrawn from registration under Section 12(b) of the Act.[2] The Commission adopted amendments to Rule 12d2–2 and Form 25 in 2005.[3] Under the amended Rule 12d2–2, all issuers and national securities exchanges seeking to delist and deregister a security in accordance with the rules of an exchange must file the adopted version of Form 25 with the Commission. The Commission also adopted amendments to Rule 19d–1 under the Act to require exchanges to file the adopted version of Form 25 as notice to the Commission under Section 19(d) of the Act. Finally, the Commission adopted amendments to exempt standardized options and security futures products from Section 12(d) of the Act. These amendments are intended to simplify the paperwork and procedure associated with a delisting

[1] Post-effective amendments are filed with the Commission on the UIT's Form S–6. Hence, respondents only file Form N–8B–2 for their initial registration statement and not for post-effective amendments.

[2] *FAST Act Modernization and Simplification of Regulation S–K,* Securities Act Release No. 10618 (March 20, 2019) [84 FR 12674 (April 2, 2019)].

[3] Staff estimates are also adjusted to reflect new disclosures for UIT ETFs arising from the adoption of the Exchange-Traded Funds release. *See* Exchange-Traded Funds, Investment Company Act Release No. 33646 (Sept. 25, 2019) [84 FR 57162 (Oct. 24, 2019)].

[1] *See* Securities Exchange Act Release No. 98 (February 12, 1935).

[2] *See* Securities Exchange Act Release No. 7011 (February 5, 1963), 28 FR 1506 (February 16, 1963).

[3] *See* Securities Exchange Act Release No. 52029 (July 14, 2005), 70 FR 42456 (July 22, 2005).

and to unify general rules and procedures relating to the delisting process.

Form 25 is useful because it informs the Commission that a security previously traded on an exchange is no longer traded. In addition, Form 25 enables the Commission to verify that the delisting and/or deregistration has occurred in accordance with the rules of the exchange. Further, Form 25 helps to focus the attention of delisting issuers to make sure that they abide by the proper procedural and notice requirements associated with a delisting and/or a deregistration. Without Rule 12d2–2 and Form 25, as applicable, the Commission would be unable to fulfill its statutory responsibilities.

There are 24 national securities exchanges that could possibly be respondents complying with the requirements of the Rule and Form 25.[4] The burden of complying with Rule 12d2–2 and Form 25 is not evenly distributed among the exchanges, however, since there are many more securities listed on the New York Stock Exchange, the NASDAQ Stock Market, and NYSE American than on the other exchanges. However, for purposes of this filing, the Commission staff has assumed that the number of responses is evenly divided among the exchanges. Since approximately 830 responses under Rule 12d2–2 and Form 25 for the purpose of delisting and/or deregistration of equity securities are received annually by the Commission from the national securities exchanges, the resultant aggregate annual reporting hour burden would be, assuming on average one hour per response, 830 annual burden hours for all exchanges (24 exchanges × an average of 34.6 responses per exchange × 1 hour per response). In addition, since approximately 110 responses are received by the Commission annually from issuers wishing to remove their securities from listing and registration on exchanges, the Commission staff estimates that the aggregate annual reporting hour burden on issuers would be, assuming on average one reporting hour per response, 110 annual burden hours for all issuers (110 issuers × 1 response per issuer × 1 hour per response). Accordingly, the total annual hour burden for all respondents to comply with Rule 12d2–2 is 940 hours (830 hours for exchanges + 110 hours for issuers). The total related internal cost of compliance associated with these burden hours is $201,615 ($166,415 for exchanges plus $35,200 for issuers).

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.*

Dated: November 12, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25355 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

[4] The staff notes that a few of these 24 registered national securities exchanges only have rules to permit the listing of standardized options, which are exempt from Rule 12d2–2 under the Act. Nevertheless, the staff counted national securities exchanges that can only list options as potential respondents because these exchanges could potentially adopt new rules, subject to Commission approval under Section 19(b) of the Act, to list and trade equity and other securities that have to comply with Rule 12d2–2 under the Act. Notice registrants that are registered as national securities exchanges solely for the purposes of trading securities futures products have not been counted since, as noted above, securities futures products are exempt from complying with Rule 12d-2–2 under the Act and therefore do not have to file Form 25.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90409; File No. SR–NYSEArca–2020–95]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE Arca BBO and NYSE Arca Trades by Modifying the Application of the Access Fee and Amending the Fees for NYSE Arca Trades by Adopting a Waiver Applicable to the Redistribution Fee

November 12, 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 November 2, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend the fees for NYSE Arca BBO and NYSE Arca Trades by modifying the application of the Access Fee; and (2) amend the fees for NYSE Arca Trades by adopting a waiver applicable to the Redistribution Fee. The Exchange proposes to implement the proposed fee changes on January 1, 2021. 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] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to decrease the fees for certain NYSE Arca market data products, as set forth on the NYSE Arca Proprietary Market Data Fee Schedule (''Fee Schedule''). These fee decreases, taken together with similar fee decreases filed by the Exchange's affiliated exchanges, New York Stock Exchange LLC (''NYSE'') and NYSE American LLC (''NYSE American''),[3] will reduce the fees associated with the NYSE BQT proprietary data product, which competes directly with similar products offered by both the Nasdaq and Cboe families of U.S. equity exchanges. Collectively, the proposed fee decreases are intended to respond to the competition posed by similar products offered by the other exchange groups.

Specifically, the Exchange proposes to (1) reduce the Access Fees by more than 93% for Redistributors[4] of NYSE Arca BBO and NYSE Arca Trades that subscribe to only such data feeds and do not subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only; and (2) waive the Redistribution Fee for Redistributors that are eligible for the Per User Access Fee if the Redistributor provides NYSE Arca Trades externally to at least one data feed recipient and reports such recipient to the Exchange. All of the proposed changes would decrease fees for market data on the Exchange.

The Exchange proposes to implement these proposed fee changes on January 1, 2021.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[5]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.''[6] Indeed, equity trading is currently dispersed across 16 exchanges,[7] numerous alternative trading systems,[8] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share (whether including or excluding auction volume).[9]

With the NYSE BQT market data product, NYSE Arca and its affiliates compete head to head with the Nasdaq Basic[10] and Cboe One Feed[11] market data products. Similar to those market data products, NYSE BQT, which was established in 2014,[12] consists of certain elements from the NYSE Arca BBO and NYSE Arca Trades market data products as well as from market data products from the Exchange's affiliates, NYSE, NYSE American, NYSE Chicago, Inc. (''NYSE Chicago''),[13] and NYSE National, Inc. (''NYSE National'').[14] Similar to both Nasdaq Basic and the Cboe One Feed, NYSE BQT provides investors with a unified view of comprehensive last sale and BBO data in all Tape A, B, and C securities that trade on the Exchange, NYSE, NYSE American, NYSE Chicago, and NYSE National. Also similar to Nasdaq Basic and the Cboe One Feed, NYSE BQT is not intended to be used for purposes of making order-routing or trading decisions, but rather provides indicative prices for Tape A, B, and C securities.[15]

Currently, to subscribe to NYSE BQT, subscribers are charged an access fee of $250 per month.[16] Additionally, subscribers must also subscribe to, and pay applicable fees for NYSE Arca BBO, NYSE Arca Trades, NYSE BBO, NYSE Trades, NYSE American BBO, NYSE American Trades, NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, and NYSE National Trades. Thus, an NYSE BQT subscriber currently pays the $250 access fee for NYSE BQT, plus a $1,500 access fee for each of NYSE BBO and NYSE Trades,[17] plus a $750 access fee for each of NYSE American BBO and NYSE American Trades,[18] plus a $750 access fee for each of NYSE Arca BBO and NYSE Arca trades,[19] for a total of $6,250 ($250 + $3,000 + $1,500 + $1,500).[20] In addition, an NYSE BQT subscriber would need to pay for the applicable Professional or Non-Professional User Fees for the underlying market data products, as applicable.[21]

[3] *See* SR–NYSE–2020–91 and SR–NYSEAmer–2020–79.

[4] A Redistributor is a vendor or any other person that provides a NYSE data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS Adopting Release'').

[6] *See* Securities Exchange Act Release No. 61358, 75 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[7] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[8] *See* FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is available at *https://www.sec.gov/foia/docs/atslist.htm.*

[9] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[10] As described on the Nasdaq website, available here: *http://www.nasdaqtrader.com/Trader.aspx?id=nasdaqbasic,* Nasdaq Basic is a ''low cost alternative'' that provides ''Best Bid and Offer and Last Sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center, as well as trades reported to the FINRA Trade Reporting Facility (''TRF'').''

[11] As described on the Cboe website, available here: *https://markets.cboe.com/us/equities/market_data_services/cboe_one/,* the Cboe One Feed is a ''market data product that provides cost-effective, high-quality reference quotes and trade data for market participants looking for comprehensive, real-time market data'' and provides a ''unified view of the market from all four Cboe equity exchanges: BZX Exchange, BYX Exchange, EDGX Exchange, and EDGA Exchange.''

[12] *See* Securities Exchange Act Release Nos. 72750 (August 4, 2014), 79 FR 46494 (August 8, 2014) (notice—NYSE BQT); and 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (approval order—NYSE BQT) (SR–NYSE–2014–40) (''NYSE BQT Filing'').

[13] In 2019, NYSE BQT was amended to include NYSE Chicago BBO and NYSE Chicago Trades. *See* Securities Exchange Act Release No. 87511 (November 12, 2019), 84 FR 63689 (November 18, 2019) (SR–NYSE–2019–60).

[14] In 2018, NYSE BQT was amended to include NYSE National BBO and NYSE National Trades. *See* Securities Exchange Act Release No. 83359 (June 1, 2018), 83 FR 26507 (June 7, 2018) (SR–NYSE–2018–22).

[15] *See* NYSE BQT Filing, *supra* note 13.

[16] *See* NYSE Proprietary Market Data Fees, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.*

[17] *See id.*

[18] *See* Fee Schedule, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf.*

[19] *See* NYSE Arca Equities Proprietary Market Data Fees, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Fee_Schedule.pdf.*

[20] There are currently no fees charged for the NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, or NYSE National Trades market data products.

[21] The Exchange is not proposing any changes to the User Fees. Currently, the Professional User Fees for each of NYSE BBO and NYSE Trades is $4 per month, and the Non-Professional User Fees for each of NYSE BBO and NYSE Trades is $0.20 per month.

Continued

Because NYSE BQT is priced based on the fees associated with the underlying ten market data feeds, the Exchange and its affiliates propose to compete with the Nasdaq Basic and Cboe One Feed by reducing fees for the underlying market data products that comprise NYSE BQT. Together with NYSE and NYSE American, the Exchange similarly proposes to compete for subscribers to NYSE BQT by designing its fee decreases to be attractive to Redistributors that intend to subscribe to and externally redistribute only NYSE BQT. The Exchange understands that data recipients that are interested in subscribing to NYSE BQT obtain their data from Redistributors that do not currently subscribe to either the NYSE BQT data feed or any other market data product listed on the Fee Schedule. Because such Redistributors do not subscribe to NYSE BQT, the prospective data recipients that are the customers of such Redistributors are unable to subscribe to NYSE BQT. The proposed fee changes are designed to provide a financial incentive for such Redistributors to subscribe to NYSE BQT so that their customers, which have expressed an interest in subscribing to NYSE BQT, would be able to access the product via such Redistributors.

Access Fee—NYSE Arca BBO and NYSE Arca Trades

NYSE Arca BBO is a NYSE Arca-only market data product that allows a vendor to redistribute on a real-time basis the same best-bid-and-offer information that NYSE Arca reports under the Consolidated Quotation Plan (''CQ Plan'') for inclusion in the CQ Plan's consolidated quotation information data stream (''NYSE Arca BBO Information'').[22] NYSE Arca BBO Information includes the best bids and offers for all securities that are traded on the Exchange and for which NYSE Arca reports quotes under the CQ Plan. NYSE Arca BBO is available over a single data feed, regardless of the markets on which the securities are listed. NYSE Arca BBO is made available to its subscribers no earlier than the information it contains is made available to the processor under the CQ Plan.

NYSE Arca Trades is a NYSE Arca-only market data product that allows a vendor to redistribute on a real-time basis the same last sale information that NYSE Arca reports to the Consolidated Tape Association (''CTA'') for inclusion in the CTA's consolidated data stream and certain other related data elements (''NYSE Arca Last Sale Information'').[23] NYSE Arca Last Sale Information includes last sale information for all securities that are traded on the Exchange. NYSE Arca Trades is made available to its subscribers at the same time as the information it contains is made available to the processor under the CTA Plan.

Currently, subscribers of each of the NYSE Arca BBO and NYSE Arca Trades products that receive a data feed pay an Access Fee of $750 per month. In February 2020, the Exchange added the Per User Access Fee, which is a reduced Access Fee of $100 per month currently available only for subscribers of NYSE Arca BBO and NYSE Arca Trades that receive those products in a display-only format, including for internal use for Professional Users and external distribution to both Professional and Non-Professional Users.[24]

The Exchange now proposes that Redistributors of NYSE Arca BBO and NYSE Arca Trades data feeds that do not subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only, would also be eligible for the reduced Per User Access Fee. A Redistributor that receives a data feed of NYSE Arca BBO and NYSE Arca Trades and uses the market data products for any other purpose (such as internal use) or that subscribes to any other products listed on the Fee Schedule would continue to pay the $1,500 per month General Access Fee. As currently set forth in footnote 3 to the Fee Schedule, a subscriber would be charged only one access fee for each of the NYSE Arca BBO and NYSE Arca Trades products, depending on the use of that product.

To effect this change, the Exchange proposes to modify footnote 3 to the Fee Schedule as follows (proposed text is *italicized,* proposed deletions bracketed):

The Per User Access Fee is charged to: (i) [A] *a* subscriber that receives a data feed and uses the market data product only for Professional Users and Non-Professional Users in a display-only format, including for internal use and external redistribution in a display-only format, [will be charged the Per User Access Fee] *and (ii) a Redistributor that subscribes only to the NYSE Arca BBO and NYSE Arca Trades data feeds, and does not subscribe to any other Products listed on this Fee Schedule, and uses these market data products for external distribution only.* A subscriber that receives a data feed and uses the market data product for any other purpose, including if combined with Per User use, will be charged the General Access Fee. A subscriber will be charged only one access fee for each of the NYSE Arca BBO and NYSE Arca Trades products, depending on the use of that product.

The proposed rule change would result in lower fees for Redistributors of each of the NYSE Arca BBO and NYSE Arca Trades products that receive NYSE Arca BBO and NYSE Arca Trades data feeds and do not subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only.[25] The Exchange believes that the proposed fee reduction in NYSE Arca BBO and NYSE Arca Trades would provide an incentive for such Redistributors to subscribe to the NYSE BQT data feeds so that such product would be available to their customers, which have expressed an interest in subscribing to NYSE BQT.

The proposed rule change is intended to encourage greater use of NYSE BQT by making it more affordable for Redistributors that have customers interested in subscribing to NYSE BQT but that do not currently subscribe to

See NYSE Proprietary Market Data Fees, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.* The Professional User Fees for each of NYSE American BBO and NYSE American Trades is $4 per month, and the Non-Professional User Fees for each of NYSE American BBO and NYSE American Trades is $0.25 per month. *See* NYSE American Price List, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf.* The Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is $4 per month, and the Non-Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is $0.25 per month. *See* NYSE Arca Price List, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Proprietary_Data_Fee_Schedule.pdf.*

[22] *See* Securities Exchange Act Release Nos. 61937 (April 16, 2010), 75 FR 21378 (April 23, 2010) (SR–NYSEArca–2010–23) (notice—NYSE Arca BBO); and 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR–NYSEArca–2010–23) (approval order—NYSE Arca BBO).

[23] *See* Securities Exchange Act Release Nos. 59308 (January 28, 2009), 74 FR 5955 (February 3, 2009) (SR–NYSEArca–2009–05) (notice—NYSE Arca Trades); 59598 (March 18, 2009), 74 FR 12919 (March 25, 2009) (SR–NYSEArca–2009–05) (approval order—NYSE Arca Trades).

[24] A Per User Access Fee currently applies for subscribers of NYSE Arca BBO and NYSE Arca Trades that receive a data feed and use those market data products in a display-only format. *See* Fee Schedule. *See also* Securities Exchange Act Release No. 87795 (December 18, 2019), 84 FR 71043 (December 26, 2019) (SR–NYSEArca–2019–88) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Partial Amendment No. 1, To Amend the Fees for NYSE Arca BBO and NYSE Arca Trades) (''BQT Fee Reduction Filing'').

[25] The Per User Access Fee is 93% lower than the General Access Fee. Together with the corresponding proposed rule changes by NYSE and NYSE American to similarly reduce the access fees to their BBO and Trades products for Redistributors, such Redistributors would be eligible for significantly lower access fees for NYSE BQT, from $6,250 per month to $850 per month ($250 + $200 + $200 +$200), a reduction of more than 86%.

NYSE Arca BBO or NYSE Arca Trades or any other products listed on the Fee Schedule. The proposed fee reduction would allow the Exchange to compete more effectively with Nasdaq Basic and Cboe One Feed by expanding the number of Redistributors that would subscribe to NYSE BQT, and therefore make the product available to data subscribers interested in NYSE BQT.

Redistribution Fee—NYSE Arca Trades

The Exchange currently charges a Redistribution Fee of $750 per month for NYSE Arca Trades. A Redistributor is required to report to the Exchange each month the number of Professional and Non-Professional Users and data feed recipients that receive NYSE Arca Trades.

The Exchange proposes to waive the Redistribution Fee for a Redistributor that is eligible for the Per User Access Fee if the Redistributor provides NYSE Arca Trades externally to at least one data feed recipient and reports such data feed recipient or recipients to the Exchange. For example, a Redistributor that subscribes to the NYSE Arca BBO and NYSE Arca Trades data feeds and does not subscribe to any other product listed on the Fee Schedule would have the Redistribution Fee waived for the month if such Redistributor provides NYSE Arca BBO and NYSE Arca Trades externally to at least one data feed recipient and reports such data feed recipient to the Exchange.

By targeting this proposed fee waiver to Redistributors that provide external distribution of NYSE Arca Trades, the Exchange believes that this would provide an incentive for Redistributors to make the NYSE BQT market data product available to its customers. Specifically, if a data recipient is interested in subscribing to NYSE BQT and relies on a Redistributor to obtain market data products from the Exchange, that data recipient would need its Redistributor to redistribute NYSE BQT. Currently, Redistributors that redistribute some NYSE Arca market data products do not necessarily also make NYSE BQT available. The Exchange believes that this proposed fee waiver for Redistributors of NYSE Arca Trades would provide an incentive for Redistributors to make NYSE BQT available to their customers, which will increase the availability of NYSE BQT to a larger potential population of data recipients.[26]

Applicability of Proposed Rule Change

As noted above, the proposed rule change is designed to further reduce the overall cost of NYSE BQT by reducing specified fees applicable to the underlying market data products that comprise NYSE BQT. Prior to the BQT Fee Reduction Filing, the Exchange had only one subscriber to NYSE BQT. Today, the Exchange has seven subscribers, three of whom became customers as a direct result of the BQT Fee Reduction Filing and currently pay the reduced Per User Access Fee. The Exchange believes that the proposed rule changes would provide a further incentive for Redistributors to subscribe to NYSE BQT for purposes of providing external distribution of NYSE BQT to potential data recipients interested in the product.

Because the proposed rule change is targeted to potential Redistributors of NYSE BQT that do not currently subscribe to any NYSE Arca market data products, the proposed changes to the availability of the NYSE Arca BBO and NYSE Arca Trades Per User Access Fees, together with the proposed changes on NYSE and NYSE American, are narrowly tailored with that purpose in mind. Accordingly, these proposed fee changes are not designed for Redistributors that are existing customers of NYSE Arca market data products or that engage in internal use of NYSE BQT. This proposed rule change would not result in any changes to the market data fees for NYSE Arca BBO and NYSE Arca Trades for such data subscribers.

The Exchange believes that there are at least three potential Redistributors that would meet the qualifications to be eligible for these proposed fee changes. The Exchange further believes that this proposed rule change has the potential to attract these three Redistributors as new Redistributors for NYSE BQT, as well as new NYSE BQT subscribers that would be subscribing to NYSE Arca BBO and NYSE Arca Trades for the first time.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[27] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[28] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Proposed Rule Change Is Reasonable

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [29]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system ''evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed'' and that the SEC wield its regulatory power ''in those situations where competition may not be sufficient,'' such as in the creation of a ''consolidated transactional reporting system.'' [30]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [31]

More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find

[26] NYSE Arca does not charge a Redistribution Fee for NYSE Arca BBO.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(4), (5).

[29] *See* Regulation NMS Adopting Release, 70 FR 37495, at 37499.

[30] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[31] *Id.* at 535.

that the terms of the rule violate the Act or the rules thereunder.[32]

1. The Proposed Fees Are Constrained by Significant Competitive Forces

a. Exchange Market Data Is Sold in a Competitive Market

In 2018, Charles M. Jones, the Robert W. Lear of Professor of Finance and Economics of the Columbia University School of Business, conducted an analysis of the market for equity market data in the United States. He canvassed the demand for both consolidated and exchange proprietary market data products and the uses to which those products were put by market participants, and reported his conclusions in a paper annexed hereto.[33] Among other things, Professor Jones concluded that:

• ''The market [for exchange market data] is characterized by robust competition: Exchanges compete with each other in selling proprietary market data products. They also compete with consolidated data feeds and with data provided by alternative trading systems ('ATSs'). Barriers to entry are very low, so existing exchanges must also take into account competition from new entrants, who generally try to build market share by offering their proprietary market data products for free for some period of time.'' [34]

• ''Although there are regulatory requirements for some market participants to use consolidated data products, there is no requirement for market participants to purchase any proprietary market data product for regulatory purposes.'' [35]

• ''There are a variety of data products, and consumers of equity market data choose among them based on their needs. Like most producers, exchanges offer a variety of market data products at different price levels. Advanced proprietary market data products provide greater value to those who subscribe. As in any other market, each potential subscriber takes the features and prices of available products into account in choosing what market data products to buy based on its business model.'' [36]

• ''Exchange equity market data fees are a small cost for the industry overall: The data demonstrates that total exchange market data revenues are orders of magnitude smaller than (i) broker-dealer commissions, (ii) investment bank earnings from equity trading, and (iii) revenues earned by third-party vendors.'' [37]

• ''For proprietary exchange data feeds, the main question is whether there is a competitive market for proprietary market data. More than 40 active exchanges and alternative trading systems compete vigorously in both the market for order flow and in the market for market data. The two are closely linked: An exchange needs to consider the negative impact on its order flow if it raises the price of its market data. Furthermore, new entrants have been frequent over the past 10 years or so, and these venues often give market data away for free, serving as a check on pricing by more established exchanges. These are all the standard hallmarks of a competitive market.'' [38]

Professor Jones' conclusions are consistent with the demonstration of the competitive constraints on the pricing of market data demonstrated by analysis of exchanges as platforms for market data and trading services, as shown below.[39]

b. Exchanges That Offer Market Data and Trading Services Function as Two-Sided Platforms

An exchange may demonstrate that its fees are constrained by competitive forces by showing that platform competition applies.

As the United States Supreme Court recognized in *Ohio* v. *American Express,* platforms are firms that act as intermediaries between two or more sets of agents, and typically the choices made on one side of the platform affect the results on the other side of the platform via externalities, or ''indirect network effects.'' [40] Externalities are linkages between the different ''sides'' of a platform such that one cannot understand pricing and competition for goods or services on one side of the platform in isolation; one must also account for the influence of the other side. As the Supreme Court explained:

> To ensure sufficient participation, two-sided platforms must be sensitive to the prices that they charge each side. . . . Raising the price on side A risks losing participation on that side, which decreases the value of the platform to side B. If the participants on side B leave due to this loss in value, then the platform has even less value to side A—risking a feedback loop of declining demand. . . . Two-sided platforms therefore must take these indirect network effects into account before making a change in price on either side.[41]

The Exchange and its affiliated exchanges have long maintained that they function as platforms between consumers of market data and consumers of trading services. Proving the existence of linkages between the two sides of this platform requires an in-depth economic analysis of both public data and confidential Exchange data about particular customers' trading activities and market data purchases. Exchanges, however, are prohibited from sharing details about these specific customer activities and purchases. For example, pursuant to Exchange Rule 7.41–E, transactions executed on the Exchange are processed anonymously.

The Exchange and its affiliated exchanges retained a third party expert, Marc Rysman, Professor of Economics Boston University, to analyze how platform economics applies to stock exchanges' sale of market data products and trading services, and to explain how this affects the assessment of competitive forces affecting the exchanges' data fees.[42] Professor Rysman was able to analyze exchange data that is not otherwise publicly available in a manner that is consistent with the exchanges' confidentiality obligations to customers. As shown in his paper, Professor Rysman surveyed the existing economic literature analyzing stock exchanges as platforms between market data and trading activities, and explained the types of linkages between market data access and trading activities that must be present for an exchange to function as a platform. In addition, Professor Rysman undertook an empirical analysis of customers' trading activities within the NYSE group of exchanges in reaction to NYSE's introduction in 2015 of the NYSE Integrated Feed, a full order-by-order depth of book data product.[43]

[32] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (''National IF Approval Order'') (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (''2008 ArcaBook Approval Order'').

[33] *See* Exhibit 3A, Charles M. Jones, *Understanding the Market for U.S. Equity Market Data,* August 31, 2018 (hereinafter ''Jones Paper'').

[34] Jones Paper at 2.

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] *Id.* at 39–40.

[39] More recently, Professors Jonathan Brogaard and James Brugler also looked at the market for proprietary market data products and confirmed that it is competitive. The authors document that introducing fees for market data leads to lower market share, and identify informed traders as the most affected trader categories after fees are introduced. *See* Jonathan Brogaard and James Brugler, *Competition and Exchange Data Fees,* October 2, 2020 (Exhibit 3B).

[40] *Ohio* v. *American Express,* 138 S. Ct. 2274, 2280–81 (2018).

[41] *Id.* at 2281.

[42] *See* Exhibit 3C, Marc Rysman, *Stock Exchanges as Platforms for Data and Trading,* December 2, 2019 (hereinafter ''Rysman Paper''), ¶ 7.

[43] *See* Securities Exchange Act Release Nos. 74128 (January 23, 2015), 80 FR 4951 (January 29,

Professor Rysman's analysis of this confidential firm-level data shows that firms that purchased the NYSE Integrated Feed market data product after its introduction were more likely to route orders to NYSE as opposed to one of the other NYSE-affiliated exchanges, such as NYSE Arca or NYSE American.[44] Moreover, Professor Rysman shows that the same is true for firms that did *not* subscribe to the NYSE Integrated Feed: The introduction of the NYSE Integrated Feed led to more trading on NYSE (as opposed to other NYSE-affiliated exchanges) by firms that did *not* subscribe to the NYSE Integrated Feed.[45] This is the sort of externality that is a key characteristic of a platform market.[46]

From this empirical evidence, Professor Rysman concludes:

- ''[D]ata is more valuable when it reflects more trading activity and more liquidity-providing orders. These linkages alone are enough to make platform economics necessary for understanding the pricing of market data.'' [47]
- ''[L]inkages running in the opposite direction, from data to trading, are also very likely to exist. This is because market data from an exchange reduces uncertainty about the likelihood, price, or timing of execution for an order on that exchange. This reduction in uncertainty makes trading on that exchange more attractive for traders that subscribe to that exchange's market data. Increased trading by data subscribers, in turn, makes trading on the exchange in question more attractive for traders that do not subscribe to the exchange's market data.'' [48]
- The ''mechanisms by which market data makes trading on an exchange more attractive for subscribers to market data . . . apply to a wide assortment of market data products, including BBO, order book, and full order-by-order depth of book data products at all exchanges.'' [49]
- ''[E]mpirical evidence confirms that stock exchanges are platforms for data and trading.'' [50]
- ''The platform nature of stock exchanges means that data fees cannot be analyzed in isolation, without accounting for the competitive dynamics in trading services.'' [51]
- ''Competition is properly understood as being between platforms (*i.e.,* stock exchanges) that balance the needs of consumers of data and traders.'' [52]
- ''Data fees, data use, trading fees, and order flow are all interrelated.'' [53]
- ''Competition for order flow can discipline the pricing of market data, and vice-versa.'' [54]
- ''As with platforms generally, overall competition between exchanges will limit their overall profitability, not margins on any particular side of the platform.'' [55]

c. Exchange Market Data Fees Are Constrained by the Availability of Substitute Platforms

Professor Rysman's conclusions that exchanges function as platforms for market data and transaction services mean that exchanges do not set fees for market data products without considering, and being constrained by, the effect the fees will have on the order-flow side of the platform. And as the D.C. Circuit recognized in *NetCoalition I,* ''[n]o one disputes that competition for order flow is fierce.'' [56] The court further noted that ''no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers,'' and that an exchange ''must compete vigorously for order flow to maintain its share of trading volume.'' [57]

As noted above, while Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [58] The Commission's Division of Trading and Markets has also recognized that with so many ''operating equities exchanges and dozens of ATSs, there is vigorous price competition among the U.S. equity markets and, as a result, [transaction] fees are tailored and frequently modified to attract particular types of order flow, some of which is highly fluid and price sensitive.'' [59] Indeed, today, equity trading is currently dispersed across 16 exchanges,[60] numerous alternative trading systems,[61] broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share.[62]

Further, low barriers to entry mean that new exchanges may, and do, rapidly and inexpensively enter the market and offer additional substitute platforms to compete with the Exchange.[63] For example, in 2020 alone, three new exchanges have entered the market: Long Term Stock Exchange (LTSE), which began operations as an exchange on August 28, 2020; [64] Members Exchange (MEMX), which began operations as an exchange on September 29, 2020; [65] and Miami International Holdings (MIAX), which began operations of its first equities exchange on September 29, 2020.[66]

These low barriers enable existing exchange customers to disintermediate and start their own exchanges if they think the prices charged for exchange proprietary market data products are too high. This is precisely the rationale behind the creation of MEMX, which

2015) (SR–NYSE–2015–03) (Notice of filing and immediate effectiveness of proposed rule change to establish NYSE Integrated Feed) and 76485 (November 20, 2015), 80 FR 74158 (November 27, 2015) (SR–NYSE–2015–57) (Notice of filing and immediate effectiveness of proposed rule change to establish fees for the NYSE Integrated Feed).

[44] Rysman Paper ¶¶ 79–89.

[45] *Id.* ¶¶ 90–91.

[46] *Id.* ¶ 90.

[47] *Id.* ¶ 95.

[48] *Id.* ¶ 96.

[49] *Id.*

[50] *Id.* ¶ 97.

[51] *Id.* ¶ 98.

[52] *Id.*

[53] *Id.*

[54] *Id.*

[55] *Id.* ¶ 100.

[56] *NetCoalition I,* 615 F.3d at 544 (internal quotation omitted).

[57] *Id.*

[58] *See* Securities Exchange Act Release No. 61358, 75 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[59] Commission Division of Trading and Markets, Memorandum to EMSAC, dated October 20, 2015, available here: *https://www.sec.gov/spotlight/emsac/memo-maker-taker-fees-on-equities-exchanges.pdf.*

[60] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[61] *See* FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is available at *https://www.sec.gov/foia/docs/atslist.htm.*

[62] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[63] *See* Jones Paper at 10–11.

[64] *See* LTSE Market Announcement: MA–2020–020, dated August 14, 2020, announcing LTSE production securities phase-in planned for August 28, available here: *https://assets.ctfassets.net/cchj2z2dcfyd/rnGvgggJUplaIk6N1xNA7/41926d3925a177d6455868090c46aeda/MA-2020-020__Production_Securities_Launching_August_28_-_Google_Docs.pdf and LTSE Market Announcement: MA-2020-025,* available here: *https://assets.ctfassets.net/cchj2z2dcfyd/52nIKwAuOraU1agaNY5j80/0d27ab0eb9b540c67a5e9f831f23f0ac/MA-2020-025.pdf.*

[65] As of October 29, 2020, MEMX is trading all NMS symbols but has not yet enabled NMS routing. *See https://info.memxtrading.com/trader-alert-20-10-memx-trading-symbols-update/.*

[66] *See* MIAX Pearl Press release, dated September 29, 2020, available here: *https://www.miaxoptions.com/sites/default/files/alert-files/MIAX_Press_Release_09292020.pdf.*

was formed by some of the largest and most well capitalized financial firms that are also Exchange customers (including Bank of America, BlackRock, Charles Schwab, Citadel, Citi, E*Trade, Fidelity, Goldman Sachs, J.P. Morgan, Jane Street, Morgan Stanley, TD Ameritrade, and others).[67]

For example, one of MEMX's founding principles is that exchange proprietary market data prices are too high, and that MEMX will benefit its members by offering ''[l]ower pricing on market data.'' [68] Nor is this a new phenomenon: Exchange customers formed BATS to compete with incumbent exchanges and once registered as an exchange in 2008, BATS did not initially charge for market data. The BATS venture was a financial success for its founders, first through recouping their investment in its initial public offering and then in the subsequent sale of BATS to Cboe, which now charges for market data from those exchanges. Notably, MEMX has some of the same founding broker-dealer customers, leading some to dub MEMX ''BATS 2.0.'' [69]

The fact that this cycle is viable and repeatable by entities that both trade on and compete with existing exchanges confirms that barriers to entry are low and that these markets are competitive and contestable.[70] And low barriers to entry act as a market check on high prices.[71]

Given Professor Rysman's conclusion that exchanges are platforms for market data and trading, this fierce competition for order flow on the trading side of the platform acts to constrain, or ''discipline,'' the pricing of market data on the other side of the platform.[72] And due to the ready availability of substitutes and the low cost to move order flow to those substitute trading venues, an exchange setting market data fees that are not at competitive levels would expect to quickly lose business to alternative platforms with more attractive pricing.[73] Although the various exchanges may differ in their strategies for pricing their market data products and their transaction fees for trades—with some offering market data for free along with higher trading costs, and others charging more for market data and comparatively less for trading—the fact that exchanges are platforms ensures that no exchange makes pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform.[74]

In sum, the fierce competition for order flow thus constrains any exchange from pricing its market data at a supracompetitive price, and constrains the Exchange in setting its fees at issue here.

The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute platforms offering market data products and trading. Such substitutes need not be identical, but only substantially similar to the product at hand.

More specifically, in reducing specified fees for the NYSE Arca BBO and NYSE Arca Trades market data products, the Exchange is constrained by the fact that, if its pricing across the platform is unattractive to customers, customers have their pick of an increasing number of alternative platforms to use instead of the Exchange. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The existence of numerous alternative platforms to the Exchange's platform ensures that the Exchange cannot set unreasonable market data fees without suffering the negative effects of that decision in the fiercely competitive market for trading order flow.

d. The Availability of Substitute Market Data Products Constrains Fees for NYSE Arca BBO, NYSE Arca Trades, and NYSE BQT

Even putting aside the facts that exchanges are platforms and that pricing decisions on the two sides of the platform are intertwined, the Exchange is constrained in setting the proposed market data fees by the availability of numerous substitute market data products. The Commission has been clear that substitute products need not be identical, but only substantially similar to the product at hand.[75]

The NYSE BQT market data product is subject to significant competitive forces that constrain its pricing. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. In the case of NYSE BQT, this product provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, which together account for approximately 22% of consolidated U.S. equities trading volume as of September 2020.[76] Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are

[67] MEMX Home Page (''Founded by members and investors, MEMX aims to drive simplicity, efficiency, and competition in equity markets.''), available at *https://memx.com/.*

[68] MEMX home page, available at *https://memx.com/.*

[69] *See* ''MEMX turns up the heat on US stock exchanges,'' Financial Times, January 9, 2019, available at *https://www.ft.com/content/4908c8b0-1418-11e9-a581-4ff78404524e; see also* ''US equities exchanges: If you can't beat them, join them,'' Euromoney, February 13, 2019, available at *https://www.euromoney.com/article/b1d3tfby4p3y4v/us-equities-exchanges-if-you-cant-beat-them-join-them.*

[70] *United States* v. *SunGard Data Sys.,* 172 F. Supp. 2d 172, 186 (D.D.C. 2001) (recognizing that ''[a]s a matter of law, courts have generally recognized that when a customer can replace the services of an external product with an internally-created system, this captive output (*i.e.* the self-production of all or part of the relevant product) should be included in the same market.''). In *SunGard,* the court rejected the Antitrust Division's attempt to block SunGuard's acquisition of the disaster recovery assets of Comdisco on the basis that the acquisition would ''substantially lessen competition in the market for shared hotsite disaster recovery services,'' when the evidence showed that ''internal hotsites'' created by customers competed with the ''external shared hotsite business'' engaged in by the merging parties. *Id.* at 173–74, 187.

[71] *United States* v. *Baker Hughes,* 908 F.2d 981, 987 (1990) (''In the absence of significant barriers [to entry], a company probably cannot maintain supracompetitive pricing for any length of time.''); *see also* David S. Evans and Richard Schmalensee, Markets with Two-Sided Platforms, in 1 Issues in Competition Law and Policy 667, 685 (ABA Section of Antitrust Law 2008) (noting that exchange mergers in 2005 and 2006 were approved by competition authorities in part in reliance on planned and likely entry of other firms).

[72] Rysman Paper ¶ 98.

[73] *See* Jones Paper at 11.

[74] In the context of the fee proposal that led to the National IF Approval Order, *supra* note 33, one commenter contended that trading was not a platform with exchange proprietary market data, and that the exchanges' proprietary market data products were instead ''complements'' for which exchanges could charge supracompetitive prices. Professor Rysman debunked these contentions in an additional paper. *See* Marc Rysman, *Complements, Competition, and Exchange Proprietary Data Products,* August 13, 2020 (Exhibit 3D).

[75] For example, in the National IF Approval Order, the Commission recognized that for some customers, the best bid and offer information from consolidated data feeds may function as a substitute for the NYSE National Integrated Feed product, which contains order by order information. *See* National IF Approval Order, *supra* note 33, at 67397 [release p. 21] (''[I]nformation provided by NYSE National demonstrates that a number of executing broker-dealers do not subscribe to the NYSE National Integrated Feed and executing broker-dealers can otherwise obtain NYSE National best bid and offer information from the consolidated data feeds.'' (internal quotations omitted)).

[76] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share/market/2019-10-31/.*

all intended to provide indicative pricing and are not intended to be used for order routing or trading decisions.

In addition to competing with proprietary data products from Nasdaq and Cboe, NYSE BQT also competes with the consolidated data feed. However, the Exchange does not claim that NYSE BQT is a substitute for consolidated data with respect to requirements under the Vendor Display Rule, which is Regulation NMS Rule 603(c).

The fact that this filing is proposing reductions in certain fees and fee waivers is itself confirmation of the inherently competitive nature of the market for the sale of proprietary market data. For example, in August 2019, Cboe filed proposed rule changes to reduce certain of its Cboe One Feed fees and noted that it attracted two additional customers because of the reduced fees.[77] More recently, Nasdaq filed a proposed rule change to lower the enterprise license fee for broker-dealers distributing Nasdaq Basic to internal Professional subscribers and the enterprise license fee for broker-dealers distributing Nasdaq Last Sale to Professional subscribers.[78]

The Exchange notes that NYSE Arca BBO, NYSE Arca Trades, and NYSE BQT are entirely optional. The Exchange is not required to make the proprietary data products that are the subject of this proposed rule change available or to offer any specific pricing alternatives to any customers, nor is any firm or investor required to purchase the Exchange's data products. Unlike some other data products (*e.g.,* the consolidated quotation and last-sale information feeds) that firms are required to purchase in order to fulfil regulatory obligations,[79] a customer's decision whether to purchase any of the Exchange's proprietary market data feeds is entirely discretionary. Most firms that choose to subscribe to proprietary market data feeds from the Exchange and its affiliates do so for the primary goals of using them to increase their revenues, reduce their expenses, and in some instances compete directly with the Exchange's trading services. Such firms are able to determine for themselves whether or not the products in question or any other similar products are attractively priced. If market data feeds from the Exchange and its affiliates do not provide sufficient value to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use the products.[80]

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Refinitiv, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. This competitive constraint is precisely what is driving the proposed fee changes here, which are designed to attract new market data vendors, and through them new subscribers, to the NYSE BQT product. Currently, only four vendors subscribe to NYSE BQT, and each vendor has limited redistribution of NYSE BQT. No other vendors currently subscribe to NYSE BQT and likely will not unless their customers request it, and customers will not elect to pay the proposed fees unless such product can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Because of the availability of substitutes, an exchange that overprices its market data products stands a high risk that users may substitute another source of market data information for its own. Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The existence of numerous alternatives to the Exchange's platform and, more specifically, alternatives to the market data products, including proprietary

[77] *See* Securities Exchange Act Release Nos. 86667 (August 14, 2019) (SR–CboeBZX–2019–069); 86670 (August 14, 2019) (SR–CboeBYX–2019–012); 86676 (August 14, 2019) (SR–CboeEDGA–2019–013); and 86678 (August 14, 2019) (SR–CboeEDGX–2019–048) (Notices of filing and Immediate effectiveness of proposed rule change to reduce fees for the Cboe One Feed) (collectively ''Cboe One Fee Filings''). The Cboe One Fee Filings were in effect from August 1, 2019 until September 30, 2019, when the Commission suspended them and instituted proceedings to determine whether to approve or disapprove those proposals. *See, e.g.,* Securities Exchange Act Release No. 87164 (September 30, 2019), 84 FR 53208 (October 4, 2019) (SR–CboeBZX–2019–069). On October 1, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings on the basis that they had new customers subscribe as a result of the Cboe One Fee Filings, and therefore its fee proposal had increased competition for top-of-book market data. *See* Securities Exchange Act Release Nos. 87312 (October 15, 2019), 84 FR 56235 (October 21, 2019) (SR–CboeBZX–2019–086); 87305 (October 14, 2019), 84 FR 56210 (October 21, 2019) (SR–CboeBYX–2019–015); 87295 (October 11, 2019), 84 FR 55624 (October 17, 2019) (SR–CboeEDGX–2019–059); and 87294 (October 11, 2019), 84 FR 55638 (October 17, 2019) (SR–CboeEDGA–2019–015) (Notices of filing and immediate effectiveness of proposed rule changes to re-file the Small Retail Broker Distribution Program) (''Cboe One Fee Re-Filings''). On November 26, 2019, the Commission suspended the Cboe One Fee Re-Filings and instituted proceedings to determine whether to approve or disapprove those proposals. *See, e.g.,* Securities Exchange Act Release No. 87629 (November 26, 2019), 84 FR 66245 (December 3, 2019) (SR–CboeBZX–2019–086). On November 27, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings with one revision to the requirements for participating in the Small Retail Broker Distribution Program and additional information about the basis for the proposed fee changes. *See* Securities Exchange Act Release Nos. 87712 (December 10, 2019), 84 FR 68508 (December 16, 2019) (SR–CboeBZX–2019–101); 88713 (December 10, 2019), 84 FR 68530 (December 16, 2019) (SR–CboeBYX–2019–023); 87709 (December 10, 2019), 84 FR 68523 (December 16, 2019) (SR–CboeEDGA–2019–021); and 87711 (December 10, 2019), 84 FR 68501 (December 16, 2019) (SR–Cboe–EDGX–2019–071) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) (''Cboe One Third Fee Re-Filings''). On February 4, 2020, the Cboe equities exchanges withdrew the Cboe One Third Fee Re-Filings and, on the same date, refiled the Cboe One Fee Filings. *See* Securities Exchange Act Release Nos. 88221 (February 14, 2020), 85 FR 9904 (February 20, 2020) (SR–CboeBYX–2020–007); 88218 (February 14, 2020), 85 FR 9827 (February 20, 2020) (SR–CboeBZX–2020–014); 88220 (February 14, 2020), 85 FR 9912 (February 20, 2020) (SR–CboeEDGA–2020–004); and 88219 (February 14, 2020), 85 FR 9872 (February 20, 2020) (SR–CboeEDGX–2020–008) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) (''Cboe One Fourth Fee Re-Filings''). On April 15, 2020, the Cboe equities exchanges withdrew the Cboe One Fee Filings and the Cboe One Fee Re-Filings. Pursuant to the Cboe One Fourth Fee Re-Filings, the Small Retail Broker Distribution Program is currently in effect at the Cboe equities exchanges.

[78] *See* Securities Exchange Act Release No. 90177 (October 14, 2020), 85 FR 66620 (October 20, 2020) (SR–NASDAQ–2020–065) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Lower the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Basic to Internal Professional Subscribers as Set Forth in the Equity 7 Pricing Schedule, Section 147, and the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Last Sale to Professional Subscribers at Equity 7, Section 139).

[79] The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations. *See In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations,* Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.

[80] *See generally* Jones Paper at 8, 10–11.

data from other sources, ensures that the Exchange cannot set unreasonable fees when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

2. The Proposed Fees Are Reasonable

The specific fees that the Exchange proposes for NYSE Arca BBO and NYSE Arca Trades are reasonable, for the following additional reasons.

Overall. This proposed fee change is a result of the competitive environment, as the Exchange seeks to decrease certain of its fees to attract Redistributors that do not currently subscribe to the NYSE BQT market data product. The Exchange is proposing the fee reductions at issue to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, and expanding the options available to firms making data purchasing decisions based on their business needs. The Exchange believes that this is consistent with the principles contained in Regulation NMS to ''promote the wide availability of market data and to allocate revenues to SROs that produce the most useful data for investors.'' [81]

Access Fee. By making the reduced Per User Access Fee available to Redistributors that subscribe only to the NYSE Arca BBO and NYSE Arca Trades data feeds and NYSE BQT and do not have any internal use of such products, and do not subscribe to any other products listed on the Fee Schedule, the Exchange believes that more Redistributors may choose to subscribe to these products, thereby expanding the distribution of this market data for the benefit of investors that participate in the national market system and increasing competition generally. The Exchange also believes that offering the Per User Access Fee to these Redistributors would expand the availability of NYSE BQT to potential data recipients that are interested in subscribing to NYSE BQT but do not have access to a Redistributor who subscribes to the data feeds.

The Exchange determined to make the reduced Per User Access Fee available to these Redistributors because it constitutes a substantial reduction of the current fee, with the intended purpose of increasing use of NYSE BQT by Redistributors that do not currently subscribe to any NYSE Arca market data products. NYSE BQT has been in place since 2014 but has a very small number of subscribers. The Exchange believes that in order to compete with other indicative pricing products such as Nasdaq Basic and Cboe One Feed, it needs to provide a meaningful financial incentive for more Redistributors to choose to subscribe to NYSE BQT so that they can make it available to their customers. Accordingly, the proposed reduction to the access fees for NYSE Arca BBO and NYSE Arca Trades, together with the proposed reduction to the access fees for NYSE BBO, NYSE Trades, NYSE American BBO, and NYSE American Trades, is reasonable because the reductions will make NYSE BQT a more attractive offering for Redistributors that do not currently subscriber to any NYSE Arca market data products and make it more competitive with Nasdaq Basic and Cboe One Feed. For example, the External Distribution Fee for Cboe One Feed is currently $5,000 (which is the sum of the External Distribution fees for the four exchange data products that are included in Cboe One Feed) plus a Data Consolidation Fee of $1,000, for a total of $6,000. Evidence of the competition among exchange groups for these products has previously been demonstrated via fee changes. For example, following the introduction of the Cboe One Feed, Nasdaq responded by reducing its fees for the Nasdaq Basic product.[82] With the proposed changes by the Exchange, NYSE, and NYSE American, the Exchange is similarly seeking to compete by decreasing the total access fees for NYSE BQT from $6,250 to $850 for Redistributors that do not currently subscribe to any NYSE Arca market data products and have customers that are interested in subscribing to NYSE BQT but cannot do so until their Redistributor also subscribes. This proposed rule change therefore demonstrates the existence of an effective, competitive market because this proposal resulted from a need to generate innovative approaches in response to competition from other exchanges that offer market data for a specific segment of market participants.

Redistribution Fees. Similarly, the proposed waiver of the NYSE Arca Trades Redistribution Fee is reasonable because it is designed to provide an incentive for Redistributors to make NYSE BQT available so that data recipients can subscribe to NYSE BQT. The Exchange further believes that the proposed waiver of the NYSE Arca Trades Redistribution Fee is reasonable because it is designed to compete with market data products offered by the Cboe family of equity exchanges.[83]

For all of the foregoing reasons, the Exchange believes that the proposed fees are reasonable.

The Proposed Fees Are Equitably Allocated

The Exchange believes the proposed fees for NYSE Arca BBO and NYSE Arca Trades are allocated fairly and equitably among the various categories of users of the feed, and any differences among categories of users are justified.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to access NYSE Arca BBO and NYSE Arca Trades for Redistributors that would be subscribing only to the NYSE Arca BBO and NYSE Arca Trades data feeds and would use these market data products for external distribution only, which the Exchange hopes will attract new Redistributor subscribers for the NYSE BQT market data product so that the product can be made available to prospective market data recipients. The Exchange is proposing the fee reductions to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions based on their business needs, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be

[81] *See* Regulation NMS Adopting Release, 70 FR 37495, at 37503.

[82] *See e.g.,* Securities Exchange Act Release No. 83751 (July 31, 2018), 83 FR 38428 (August 6, 2018) (SR–NASDAQ–2018–058) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Lower Fees and Administrative Costs for Distributors of Nasdaq Basic, Nasdaq Last Sale, NLS Plus and the Nasdaq Depth-of-Book Products Through a Consolidated Enterprise License). Nasdaq filed the proposed fee change to lower the Enterprise Fee for Nasdaq Basic and other market data products in response to the Enterprise Fee for the Cboe One Feed adopted by Cboe family of exchanges.

[83] *See, e.g.,* BZX Price List—U.S. Equities available at *http://www.nasdaqtrader.com/Trader.aspx?id=DPUSdata#db.* BZX charges $500 per month for internal distribution, and $2,500 per month for external distribution, of BZX Last Sale. BZX also charges $500 per month for internal distribution, and $2,500 per month for external distribution, of BZX Top. *See* Cboe BZX U.S. Equities Exchange Fee Schedule at *http://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

subscribing only to the NYSE Arca BBO and NYSE Arca Trades data feeds and would use these market data products for external distribution only is equitable as it would apply equally to all data recipients that choose to subscribe to NYSE Arca BBO or NYSE Arca Trades for external distribution only and who do not subscribe to any other products listed on the Fee Schedule. Because NYSE Arca BBO and NYSE Arca Trades are optional products, any data recipient could choose to subscribe only to NYSE Arca BBO or NYSE Arca Trades to distribute externally and be eligible for the proposed reduced fee. The Exchange does not believe that it is inequitable that this proposed fee reduction would be available only to data recipients that subscribe only to NYSE Arca BBO or NYSE Arca Trades and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. For example, non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate order matching and execution platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. Although some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce the recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting end users. The Exchange believes that charging a different access fee for a Redistributor that is engaged solely in external distribution of only the NYSE Arca BBO and NYSE Arca Trades products is equitable because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

Redistribution Fees. The Exchange believes the proposed change to provide a waiver of the Redistribution Fee to a Redistributor that would be eligible for the Per User Access Fee because it only externally redistributes NYSE Arca Trades to at least one data feed recipient is equitably allocated. The proposed change would apply equally to all Redistributors that are eligible for the Per User Access Fee and choose to externally redistribute the NYSE Arca Trades product, and would serve as an incentive for Redistributors to make NYSE Arca Trades more broadly available for use by both Professional and Non-Professional Users. This, in turn, could provide an incentive for Redistributors that do not currently subscribe to any NYSE Arca market data products to subscribe to NYSE BQT and make it available to their customers.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE Arca market data products are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to provide a financial incentive for Redistributors that do not currently subscribe to any NYSE Arca market data products that decide to subscribe to NYSE BQT, which the Exchange hopes will attract more subscribers for the NYSE BQT market data product. The Exchange is proposing the fee reductions to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions based on their business needs, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be subscribing only to the NYSE Arca BBO and NYSE Arca Trades data feeds and would use these market data products for external distribution only is not unfairly discriminatory as it would apply equally to all Redistributors that choose to subscribe to NYSE Arca BBO or NYSE Arca Trades for external distribution only and who do not subscribe to any other products listed on the Fee Schedule. Because NYSE Arca BBO and NYSE Arca Trades are optional products, any data recipient could choose to subscribe only to NYSE Arca BBO or NYSE Arca Trades to distribute externally and be eligible for the proposed reduced fee. The Exchange does not believe that it is unfairly discriminatory that this proposed fee reduction would be available only to data recipients that subscribe only to NYSE Arca BBO or NYSE Arca Trades and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. For example, non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate order matching and execution platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. While some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce the recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting end users. The Exchange therefore believes that there is a meaningful distinction between internal use and redistribution of market data and that charging a different access fee to a Redistributor that is engaged solely in external distribution of only the NYSE Arca BBO and NYSE Arca Trades products is not unfairly discriminatory because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

Moreover, the Exchange does not believe that it is unfairly discriminatory to offer the Per User Access Fee only to those Redistributors that would subscribe only to the NYSE Arca BBO and NYSE Arca Trades data feeds and no other products on the Fee Schedule, and only for external distribution. The Exchange does not currently have any Redistributors that fit this description. This proposed rule change is designed to provide an incentive for Redistributors that do not currently subscribe to NYSE BQT or any other products listed on the Fee Schedule, but have customers that are interested in subscribing to NYSE BQT, to subscribe to the NYSE Arca BBO and NYSE Arca Trades data feeds so that they can make NYSE BQT available to their customers.

This fee incentive is not necessary for Redistributors that currently subscribe to the NYSE Arca BBO and NYSE Arca Trades data feeds because such Redistributors could already subscribe to NYSE BQT, but have chosen not to, and a reduction in their existing access fees would likely not result in such Redistributors choosing to subscribe to NYSE BQT.

Redistribution Fees. The Exchange believes the proposed change to provide a waiver of the Redistribution Fee to a Redistributor that would be eligible for the Per User Access Fee because it only externally redistributes NYSE Arca Trades to at least one data recipient is not unfairly discriminatory. The proposed waiver would apply equally to all Redistributors that are eligible for the Per User Access Fee and choose to externally redistribute the NYSE Arca Trades product, and would serve as an incentive for Redistributors that do not currently subscribe to any NYSE Arca market data products to subscribe to NYSE Arca Trades and then make NYSE BQT available to their customers.

For all of the foregoing reasons, the Exchange believes that the proposed fees are not unfairly discriminatory.

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. Indeed, as demonstrated above, the Exchange believes the proposed rule changes are pro-competitive.

Intramarket Competition. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the proposed fee schedule would apply to all subscribers of NYSE Arca market data products, and customers may not only choose whether to subscribe to the products at all, but also may tailor their subscriptions to include only the products and uses that they deem suitable for their business needs. The Exchange also believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue market on competition. As shown above, to the extent that particular proposed fees apply to only a subset of subscribers, those distinctions are not unfairly discriminatory and do unfairly burden one set of customers over another.

Intermarket Competition. The Exchange believes that the proposed fees do not impose a burden on competition on other exchanges that is not necessary or appropriate; indeed, the Exchange believes the proposed fee changes would have the effect of increasing competition. As demonstrated above and in Professor Rysman's paper, exchanges are platforms for market data and trading. In setting the proposed fees, the Exchange is constrained by the availability of substitute platforms also offering market data products and trading, and low barriers to entry mean new exchange platforms are frequently introduced. The fact that exchanges are platforms ensures that no exchange can make pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform. In setting fees at issue here, the Exchange is constrained by the fact that, if its pricing across the platform is unattractive to customers, customers will have its pick of an increasing number of alternative platforms to use instead of the Exchange. Given this intense competition between platforms, no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

In addition, the Exchange believes that the proposed fees do not impose a burden on competition or on other exchanges that is not necessary or appropriate because of the availability of numerous substitute market data products. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. NYSE BQT provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, while Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and therefore, are reasonable substitutes for one another. Additionally, market data vendors are also able to offer close substitutes to NYSE BQT. Because market data users can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another source of market data information for its own. These competitive pressures ensure that no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [84] of the Act and subparagraph (f)(2) of Rule 19b–4 [85] 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) [86] 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–2020–95 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2020–95. This file number should be included on the

[84] 15 U.S.C. 78s(b)(3)(A).

[85] 17 CFR 240.19b–4(f)(2).

[86] 15 U.S.C. 78s(b)(2)(B).

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–2020–95, and should be submitted on or before December 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[87]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25391 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

[87] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–657, OMB Control No. 3235–0705]

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 30b1–8 and Form N–CR

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''Paperwork Reduction Act'') (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 30b1–8 under the Act [17 CFR 270.30b1–8], entitled ''Current Report for Money Market Funds,'' provides that every registered open-end management investment company, or series thereof, that is regulated as a money market fund under rule 2a–7 [17 CFR 270.2a–7], that experiences any of the events specified on Form N–CR [17 CFR 274.222], must file with the Commission a current report on Form N–CR within the time period specified in that form. The information collection requirements for rule 30b1–8 and Form N–CR are designed to assist Commission staff in its oversight of money market funds and its ability to respond to market events. It also provides investors with better and timelier disclosure of potentially important events. Finally, the Commission is able to use the information provided on Form N–CR in its regulatory, disclosure review, inspection, and policymaking roles. The rule imposes a burden per report of approximately 8.5 hours and $1018.5, so that the total annual burden for the estimated 6 reports filed per year on Form N–CR is 51 hours and $19,839.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is based on communications with industry representatives, and is not derived from a comprehensive or even a representative survey or study.

The collection of information on Form N–CR is mandatory for any fund that holds itself out as a money market fund in reliance on rule 2a–7. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden(s) 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.

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: November 12, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25350 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90404; File No. SR–CBOE–2020–108]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Certain Fees Related to Transactions in Mini-SPX Index (''XSP'') Options

November 12, 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 November 2, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend certain fees related to transactions in Mini-SPX Index (''XSP'') options. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to adopt and amend certain transaction fees, surcharges and routing fees for XSP options, and amend the Select Customer Options Reduction (''SCORe'') Program and the Marketing Fee Program in connection with transactions in XSP, effective November 2, 2020.

First, the Exchange notes that it proposes to adopt and amend certain fees in connection with XSP in order to more closely align the fees assessed for XSP with that of the fees assessed for S&P 500 Index (''SPX'') options. XSP options and SPX options track the same underlying index, yet XSP options are 1/10 the size of standard SPX options contracts. As such, the proposed rule change amends and adopts certain fees for XSP in the Rate Table for All Products Excluding Underlying Symbol A that are approximately 1/10 of the fees currently assessed for SPX, as follows:

- Adopts fee code XF, appended to all Clearing Trading Permit Holders (''TPHs'') (capacity ''F'') and for Non-Clearing TPH Affiliates (capacity ''L'') (collectively, ''Firms'') orders in XSP and assesses a fee of $0.06 per contract. The proposed fee is approximately 1/10 of the fees assessed for Firm orders in SPX ($0.26 transaction fee per fee code FH + $0.17 Index License Surcharge + $0.21 SPX Execution Surcharge);
- Amends fee code MX, which is currently appended to all Market-Maker (capacity ''M'') orders in XSP and assesses a fee of $0.23 per contract, to assess a fee of $0.045 per contract. The proposed fee is approximately 1/10 of the fees assessed for Market-Maker orders in SPX ($0.28 transaction per fee code MS + $0.17 Index License Surcharge); and
- Adopts fee code XB, appended to all Broker-Dealer (capacity ''B''), Joint Back-Office (capacity ''J''), Non-TPH Market-Maker (capacity ''N''), and Professional (capacity ''U'') (collectively, ''Non-Customers'') orders in XSP and assesses a fee of $0.08 per contract. The proposed fee is approximately 1/10 of the fees assessed for Non-Customer orders in SPX ($0.42 transaction fee for fee code BT + $0.17 Index License Surcharge + $0.21 SPX Execution Surcharge).

In addition to the above, the proposed rule change also amends the Complex Surcharge, which currently assesses a $0.12 surcharge on Market-Maker, Firm and Non-Customer orders in equity, ETF and ETN options and all other index products. Footnote 35 provides that the Complex Surcharge applies per contract per side for noncustomer complex order executions that remove liquidity from the Complex Order Book (''COB'') and auction responses in the Complex Order Auction (''COA'') and the AIM in all classes except Sector Indexes and Underlying Symbol List A (which includes SPX).[3] Specifically, the Exchange amends footnote 35 to also exclude complex transactions in XSP, along with Sector Indexes and Underlying Symbol List A, from the Complex Surcharge. By not assessing the Complex Surcharge for Market-Maker, Firm and Non-Customer orders in XSP, the fees assessed for such orders, as proposed, will be more consistent with fees currently assessed on Market-Maker, Firm and Non-Customer orders in SPX. The Exchange also amends Rate Table—All Products Excluding Underlying Symbol List A so that the Automated Improvement Mechanism (''AIM'') Contra fee (applicable to orders yielding fee code YB and assesses a fee of $0.07) does not apply to orders in XSP. The Exchange amends footnote 18, which is appended to the AIM Contra fee, to provide that applicable standard transaction fees will apply to AIM, SAM, FLEX AIM and FLEX SAM executions in XSP, Sector Indexes and Underlying Symbol List A (which includes SPX). This proposed change will likewise provide consistency between the fees assessed for orders in XSP and SPX. In addition to this, because fee code XF will assess a fee of $0.06 for all Firm orders in XSP, fee codes FA and FD, which assess a fee of $0.20 for Firm orders in index products in open outcry and AIM, respectively, and are eligible for the Clearing TPH Fee Cap, will no longer be applicable to Firm orders in XSP. Therefore, the Exchange proposes to update footnote 22, which is appended to the Clearing TPH Fee Cap table, to exclude transactions in XSP from the cap. Specifically, it amends footnote 22 to provide that all non-facilitation business executed in AIM or open outcry, or as a QCC or FLEX transaction, transaction fees for Clearing TPH Proprietary and/or their Non-TPH Affiliates in all products except XSP, Sector Indexes and Underlying Symbol List A (which includes SPX), in the aggregate, are capped at $55,000 per month per Clearing TPH. It additionally updates footnote 11 (which is also appended to the Clearing TPH Fee Cap table) to provide that the Clearing TPH Fee Cap in all products except XSP, Underlying Symbol List A and Sector Indexes (the ''Fee Cap''),[4] among other programs, apply to (i) Clearing TPH proprietary orders (''F'' capacity code), and (ii) orders of Non-TPH Affiliates of a Clearing TPH. The Exchange notes that the proposed change is consistent with the manner in which Firm transaction fees in SPX are also excluded from the Clearing TPH Fee Cap.

The Exchange next proposes to amend and adopt a fee code for Customer orders (capacity ''C'') in XSP. Specifically, the Exchange proposes to amend CC, which is currently appended to all Customer orders in XSP and assesses a fee of $0.04 per contract, to apply to all Customer orders in XSP that are for greater than or equal to 10 contracts (the current fee assessed will remain the same for orders of those size), and proposes to adopt fee code XC, appended to all Customer orders in XSP that are for less than 10 contract and assesses no charge to orders of those size. The Exchange notes that a separate fee assessed for Customer orders containing up to a certain number of contracts is consistent with the manner in which the Exchange currently assesses Customer orders in ETF and ETN options.[5] Also, in light of this proposed change, the Exchange updates footnote 9, the purpose of which is to prevent firms from dividing orders into multiple orders of less than 100

[3] Underlying Symbol List A includes OEX, XEO, RUT, RLG, RLV, RUI, UKXM, SPX (includes SPXW), SPESG and VIX.

[4] The Exchange notes that it also corrects an error in footnote 11 by moving the abbreviated definition for the Clearing TPH Fee Cap (''Fee Cap''), to the end of the clause describing the cap.

[5] *See* Cboe U.S. Options Fee Schedules, Fees Codes and Associated Fees, which provides that fee code CA is appended to Customer orders for greater than or equal to 100 contracts that remove liquidity in ETF [sic] options and are assessed a fee of $0.18, and that fee code CD is appended to Customer orders for less than 100 contracts that remove liquidity in ETF [sic] options and are assessed no fee.

contracts in ETN and ETF options for purposes of qualifying for the fee waiver and avoiding transaction fees. Specifically, the Exchange amends footnote 9 to provide (as it similarly does in connection with ETF/ETN transaction fees) that transaction fees are waived for all customer orders that are of less than 10 contracts in XSP options, that transaction fees will be assessed on all customer orders that are of 10 contracts or more in XSP options, and that the Exchange will charge any leg of a complex order in XSP options that equals or exceeds 10 contracts, even if the leg is only partially executed below the 10 contract threshold.[6]

The Exchange also proposes to update its routing fees in connection with Customer orders in XSP. The Exchange currently assesses routing fees that combine the cost of the away market transaction fees, the transaction fees applicable on the Exchange plus a standard $0.15 per contract routing charge.[7] Additionally, the Exchange currently waives the away market fee and the $0.15 charge for Customer orders that were originally transmitted to the Exchange from the trading floor through an Exchange-sponsored terminal.[8] The Exchange notes that XSP is a proprietary product which is traded exclusively on the Exchange and, beginning on November 2, 2020, the Exchange's affiliated options exchange, Cboe BZX Exchange, Inc. (''BZX Options'') will also begin listing and trading XSP.[9] BZX Options plans to submit a proposal to update its fees schedule to reflect fees for orders in XSP, effective November 2, 2020. In light of the proposed fee codes for Customer orders in XSP on the Exchange (as described above) and the fees being implemented for orders in XSP executed on BZX Options, the Exchange proposes to update its routing fees for orders in XSP in the Routing Fees table, as follows:

- Amends fee code RX, which is appended to routed Customer orders in XSP and assesses a fee of $0.19, to be appended to routed Customer orders in XSP for 10 contracts or more and asseses a fee of $0.69;
- Adopts fee code RY, appended to routed Customer orders in XSP for less than 10 contracts and assesses a fee of $0.65;
- Amends fee code TX, which is appended to routed Customer orders in XSP originating on an Exchange-sponsored terminal and assesses a fee of $0.04, to be appended to routed Customer orders in XSP for 10 contracts or more originating on an Exchange-sponsored terminal (the current rate does not change); and
- Adopts fee code TY, appended to routed Customer orders in XSP for less than 10 contracts originating on an Exchange-sponsored terminal and assesses no charge.

The Exchange notes that the proposed routing fees for Customer orders in XSP are consistent with the manner in which the Exchange calculates its routing fees, including the manner in which it waives the away market fees and $0.15 routing fee for orders originating on an Exchange-sponsored terminal (*i.e.,* applicable to orders yielding fee codes TY and TX). For example, the proposed routing fee for orders yielding fee code RX is a combination of the $0.50 transaction fee for Customer orders on BZX Options, the $0.04 transaction fee for Customer orders (for over 10 contracts, as proposed) on the Exchange and the $0.15 additional routing fee.

Finally, the Exchange proposes to amend the SCORe Program and the Marketing Fee Program in connection with transactions in XSP. First, the Exchange proposes to remove XSP from eligibility under the SCORe Program. The SCORe Program is a discount program for Retail, Non-FLEX Customer (''C'' origin code) volume in SPX (including SPXW), VIX, RUT, MXEA, MXEF & XSP (''Qualifying Classes''), and is available to any TPH Originating Clearing Firm or non-TPH Originating Clearing Firm that sign up for the program. Specifically, the Exchange proposes to remove XSP from the list of Qualifying Classes under the SCORe Program table, as well as from the list of SCORe Program Qualifying Classes provided in footnote 48. The Exchange next proposes to add XSP to the Marketing Fee Program. Currently, the Marketing Fee is assessed on transactions of Market-Makers, resulting from customer orders at the per contract rate provided above on all classes of equity options, options on ETFs, options on ETNs and index options, except that the marketing fee shall not apply to Sector Indexes, DJX, MXEA, MXEF, XSP or Underlying Symbol List A. A Designated Primary Market-Maker (''DPM''), a ''Preferred Market-Maker (''PMM''), or a Lead Market-Maker (''LMM'') (collectively ''Preferenced Market-Maker'') are given access to the marketing fee funds generated from a Preferenced order. The funds collected via this Marketing Fee are then put into pools controlled by the Preferenced Market-Maker. The Preferenced Market-Maker controlling a certain pool of funds can then determine the order flow provider(s) to which the funds should be directed in order to encourage such order flow provider(s) to send orders to the Exchange. Each month, undisbursed marketing fees in excess of $250,000 are reimbursed to the Market-Makers that contributed to the pool based upon a one month look back and their pro-rata portion of the entire amount of marketing fee collected during that month. The Exchange proposes to remove XSP from the list of options classes in the Marketing Fee table to which the Marketing Fee does not apply and add it to the Marketing Fee table to be assessed a $0.25 collection per contract, which is the current collection fee for Penny Program classes.[10] Because not all Firms are registered for the SCORe Program, the Exchange believes that removing XSP from SCORe Program eligibility and, instead, adding it as eligible for the Marketing Fee Program (which automatically applies) would potentially generate more customer order flow in XSP by providing incentive to Market-Makers to submit Customer orders in XSP in order to then receive reimbursement for such orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[11] in general, and furthers the objectives of Section 6(b)(4),[12] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes

[6] The Exchange also specifies which provisions apply specifically to fees for ETF and ETN options throughout footnote 9.

[7] *See* Securities Exchange Act Release No. 87873 (December 31, 2019), 85 FR 754 (January 7, 2020) (SR–CBOE–2019–127), which explains that Cboe Options combines away market transaction fees, applicable transaction fees on Cboe Options and a $0.15 routing charge for routed orders.

[8] *See* Securities Exchange Act Release No. 88243 (February 19, 2020), 85 FR 10760 (February 25, 2020) (SR–CBOE–2020–011), which explains that the Exchange does not pass through or otherwise charge customer orders (of any size) routed to other exchanges that were originally transmitted to the Exchange from the trading floor through an Exchange-sponsored terminal (*e.g.,* a PULSe Workstation).

[9] The Exchange notes that, on November 2, 2020, BZX Options plans to begin listing and trading XSP options and the Exchange's affiliated options exchange, Cboe EDGX Exchange, Inc. (''EDGX Options''), plans to delist XSP options. The Exchange's affiliated options exchange, Cboe C2 Exchange, Inc. (''C2''), may list and trade XSP options but does not currently do so.

[10] The Exchange also updates ''Penny Pilot'' in the Marketing Fees table to state ''Penny Program'' as the Exchange recently adopted the program on a permanent basis. *See* Securities Exchange Act Release No. 89075 (June 16, 2020), 85 FR 37479 (June 22, 2020) (SR–CBOE–2020–054).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

that the proposed rule change is consistent with the objectives of Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed amendments to the Fees Schedule are reasonable, equitable and not unfairly discriminatory. Specifically, the Exchange believes that it is reasonable to assess fees for Market-Maker (MX), Firm (XF), and Non-Customer (XB) orders in XSP that reflect approximately 1/10 of the transactions fees assessed for corresponding orders in SPX because of the relation between XSP options and SPX options, wherein XSP options overlie an index 1/10 the value of the index that underlies SPX options. Additionally, the Exchange believes it is reasonable to exclude XSP from the Complex Surcharge and to apply the standard transaction fees for XSP orders in lieu of the AIM Contra fee because these proposed rule changes will likewise provide consistency between the fees assessed for orders in XSP and SPX, in that, the proposed fees for XSP will remain approximately 1/10 the fees for SPX. The Exchange notes too that it is reasonable to exclude Firm Orders in XSP from the Clearing TPH Fee Cap because fee code FA and FD, orders of which are eligible for the Clearing TPH Fee Cap, will no longer be applicable to Firm orders in XSP as a result of the new fee code XF, and resulting fee of $0.06, applicable to all Firm orders in XSP. The Exchange notes that the proposed change is consistent with the manner in which Firm transaction fees in SPX are currently excluded from the Clearing TPH Fee Cap. The Exchange believes that the proposed fees for Market-Maker, Firm and Non-Customer orders are equitable and not unfairly discriminatory because the proposed fee codes will apply automatically and uniformly to all Market-Maker, Firm and Non-Customer orders, respectively, in XSP. Likewise, all such orders in XSP per respective market participant will be equally excluded from the Complex Surcharge, AIM Contra fee and Clearing TPH Fee Cap, which will provide additional consistency with the corresponding transaction fees assessed for market participants' orders in SPX.

The Exchange also believes that the proposed fee codes for Customer orders in XSP are reasonable because applying a fee waiver for Customer orders for less than 10 contracts is reasonably designed to encourage Customer order flow in XSP options. The Exchange believes that increased Customer order flow benefits all market participants because it attracts liquidity to the Exchange by providing more trading opportunities. This, in turn, attracts Market-Makers, signaling additional corresponding increase in order flow from other market participants, and, as a result, contributing towards a robust, well-balanced market ecosystem. The Exchange also believes that the waiver of fees for Customer orders that are less than a specified number of contracts is reasonable because it is consistent with fees currently in place for Customer orders in ETF options (including the same preventative measures regarding the breaking up of orders in footnote 9).[14] Additionally, the Exchange believes that the proposed routing fees for Customer orders in XSP are reasonable because they represent an approximation of the anticipated cost to the Exchange for routing orders to BZX Options and is consistent with the manner in which fee codes for routed Customer orders are currently calculated [15] (including the waiver for those Customer orders originating on an Exchange-sponsored terminal),[16] and provided for, in the Fees Schedule.[17] The Exchange notes too that routing through the Exchange is voluntary. The Exchange believes that the proposed transaction fees and routing fees for Customer orders in XSP are equitable and not unfairly discriminatory because they will apply automatically and uniformly to all qualifying (that is, routed, greater than or equal to 10 contracts, etc.) Customer orders. Further, the Exchange believes that it is equitable and not unfairly discriminatory to provide a lower transaction and routing rate for Customer orders because, as described above, Customer liquidity benefits all market participants by providing more execution opportunities, in turn, attracting Market Maker order flow, which ultimately enhances market quality on the Exchange to the benefit of all market participants. The Exchange also notes that the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current fees schedule currently does so in many places, as do the fees structures of multiple other exchanges.[18]

Lastly, the Exchange believes that the proposed rule change to remove transactions in XSP from eligibility under the SCORe Program and add transactions in XSP to, instead, apply under the Marketing Fees Program, is reasonable because not all Firms are registered for the SCORe Program. Therefore, removing XSP from SCORe Program eligibility and, instead, adding it as eligible for the Marketing Fee Program (which automatically applies to all options unless specifically excluded, as XSP currently is) is reasonably designed to generate more customer order flow in XSP by providing incentive to Market-Makers to submit Customer orders in XSP in order to ultimately receive reimbursement for such orders. The proposed rule change is reasonable in that it redirects Exchange resources and funding from the SCORe Program into the Marketing Fee Program in order to increase incentive for customer order flow providers to submit customer order flow in XSP, which, as indicated above, tends to signal an increase in overall market activity, contributing to deeper, more liquid markets and a robust market ecosystem that benefits all market participants. The Exchange believes that assessing a collection fee of $0.25 for XSP orders in the Marketing Fee Program is reasonable because it is the same collection fee assessed for Pilot Program classes, which, like XSP, trade in penny increments. The Exchange believes the proposed rule change is equitable and not unfairly discriminatory because the proposed rule change will apply equally to all applicable transactions in XSP, in that, all Firm orders in XSP will, uniformly, not be eligible for the SCORe program and all Market-Maker orders in XSP will be uniformly assessed under, and

[13] 15 U.S.C. 78f(b)(5).

[14] *See supra* note 5.

[15] *See supra* note 7.

[16] *See supra* note 8.

[17] *See generally* Cboe Options Fees Schedule, Routing Fees table; *see also* Securities Exchange Act Release No. 87873 (December 31, 2019), 85 FR 754 (January 7, 2020) (SR–CBOE–2019–127), which provides explanation of the exchange's combined calculation of transaction fees for routed orders.

[18] *See e.g.,* NYSE American Options Fee Schedule, Section I.A, Options Transaction Fees and Credits: Rates for Options transactions; *and* MIAX Options Fee Schedule, Section (b)(1), Proprietary Products Exchange Fees: SPIKES, each of which assesses a lower transaction fee for customer orders than that of other market participants.

otherwise a part of, the Marketing Fee Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its Fee Schedule will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the XSP transaction and routing fee amounts for each separate type of market participant will be assessed automatically and uniformly to all such market participants, *i.e.,* all qualifying (that is, routed, greater than or equal to 10 contracts, etc.). Customer orders in XSP will be assessed the same amount, all Market-Maker orders in XSP will be assessed the same amount, and so on. While lower fees are assessed to Customers, Customer order flow, importantly, provides increased trading opportunities signaling additional liquidity and ultimately enhancing overall market quality. As noted above, preferential pricing to Customers is a long-standing options industry practice. In addition to this, the proposed rule change to remove XSP from the SCORe Program and add it to the Marketing Fee Program will apply equally to all applicable transactions in XSP, in that, all Firm orders in XSP will, uniformly, not be eligible for the SCORe program and all Market-Maker orders in XSP will be uniformly assessed under, and otherwise a part of, the Marketing Fee Program (as almost all other options trading on the Exchange are). Overall, the proposed rule change is designed to increase incentive for customer order flow providers to submit customer order flow in XSP, which, as indicated above, contributes to a more robust market ecosystem to the benefit of all market participants.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the propose fees assessed and rebates offered apply to an Exchange proprietary product, which are traded exclusively on the Exchange and the Exchange's affiliated options exchange, BZX Options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and paragraph (f) of Rule 19b–4 [20] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–108 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2020–108. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–108 and should be submitted on or before December 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25385 Filed 11–17–20; 8:45 am]

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[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90395; File No. SR–NASDAQ–2020–075]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Technical and Conforming Amendments to The Nasdaq Options Market Rules at Options 4

November 12, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 3, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market (''NOM'') Rules at Options 4, Section 3, ''Criteria for Underlying Securities,'' Options 4, Section 5, ''Series of Options Contracts Open for Trading,'' and Options 4, Section 6, which is currently reserved, to relocate certain rule text and make other minor technical amendments.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 4, Section 3, ''Criteria for Underlying Securities,'' Options 4, Section 5, ''Series of Options Contracts Open for Trading,'' and Options 4, Section 6, which is currently reserved, to relocate certain rule text and make other minor technical amendments. This rule change is similar to a rule change filed by Nasdaq BX, Inc.[3]

Options 4, Section 3

The Exchange proposes to amend Options 4, Section 3(1)(i) to add the words ''or ETNs'' after the phrase ''collectively known as ''Index-Linked Securities'' for additional clarity. The Exchange believes that this addition of ''ETNs'' will assist Participants in locating this rule text.

Options 4, Section 5

Relocate Rule Text

The Exchange proposes to relocate certain portions of the Supplementary Material to Options 4, Section 5 in order that rule text related to certain strike listing programs be placed with related rule text. Proposed relocated rule text is not being amended with this proposal.

The Exchange proposes to relocate Supplementary Material .11 within Options 4, Section 5 to new Options 4, Section 5(a)(1).

The Exchange proposes to relocate Supplementary Material .14 within Options 4, Section 5 to new Options 4, Section 5(e).

The Exchange proposes to relocate Supplementary Material .12 within Options 4, Section 5 to new Options 4, Section 5(f).

The Exchange proposes to relocate Supplementary Material .02 within Options 4, Section 5 to new Options 4, Section 6.

The Exchange proposes to relocate Supplementary Material .07 within Options 4, Section 5 to new Options 4, Section 5(h).

The Exchange proposes to relocate Supplementary Material .08 within Options 4, Section 5 to new Options 4, Section 5(i).

The Exchange proposes to relocate Options 4, Section 5(d)(iv) to Supplementary Material .02 within Options 4, Section 5 and add a title ''$2.50 Strike Price Interval Program.''[4]

The Exchange proposes to delete the first sentence of Supplementary Material .03(e) within Options 4, Section 5, which provides ''The interval between strike prices on Short Term Option Series shall be the same as the strike prices for series in that same option class that expire in accordance with the normal monthly expiration cycle.'' The Exchange notes that this rule text is not necessary because with the relocation of the strike listing rules for Short Term Option Series, which are proposed to be relocated from Supplementary Material .13 of Options 4, Section 5 to the end of Supplementary .03(e) of Options 4, Section 5, the reference becomes unnecessary.

The Exchange proposes to relocate Supplementary Material .13 within Options 4, Section 5 to the end of Supplementary .03(e) of Options 4, Section 5.

Other Technical Amendments

The Exchange proposes to update certain outdated citations to rule text within Options 4, Section 5. The Exchange proposes to lowercase the term ''customer'' within Options 4, Section 5(c). The Exchange proposes to re-number and re-letter certain sections for consistency, and remove reserved sections from the rule. The Exchange proposes to utilize the defined term ''Commission''[5] within Options 4, Section 5(f). The Exchange proposes to add the words ''Long-Term Options Series or'' before the term ''LEAPS'' and add quotation marks in that same sentence within current Supplementary Material .01(b)(v) at Options 5, Section 5 which is being renumbered as Supplementary Material .01(b)(5) at Options 5, Section 5.

Options 4, Section 6

The Exchange proposes to amend Options 4, Section 6, which is currently reserved. Similar to Nasdaq ISE, LLC (''ISE'') and Nasdaq BX, Inc., the Exchange proposes to relocate current Supplementary Material .02 to Options 4, Section 5 to new Options 4, Section 6 and title the section ''Select Provisions of Options Listing Procedures Plan.'' The Exchange proposes to update and conform the rule text of current Supplementary Material .02 to Options 4, Section 5 to mirror the rule text within ISE Options 4, Section 6 as well as BX Options 4, Section 6. The Exchange proposes to add this sentence. ''A complete copy of the current OLPP may be accessed at: *http://www.optionsclearing.com/products/options_listing_proceduresplan.pdf*'' to the end of proposed Options 4, Section 6(a) to provide greater detail. The Exchange also proposes to add a clause which provides that, ''The series exercise price range limitations contained in subparagraph (a) above do not apply with regard to: the listing of Flexible Exchange Options,'' similar to ISE and BX. In addition to renumbering this section to correspond to ISE's and BX's numbering, the Exchange proposes additional rule text which mirrors ISE's and BX's rule text which states,

(iii) The Exchange may designate up to five options classes to which the series exercise price range may be up to 100% above and below the price of the underlying security (which underlying security price shall be determined in accordance with subparagraph (i) above). Such designations shall be made on an annual basis and shall not be removed during the calendar year unless the options

[3] *See* Securities Exchange Act Release No. 90218 (October 19, 2020), 85 FR 67579 (October 23, 2020) (SR–BX–2020–030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Technical Amendments to the Options Listing Rules).

[4] The Exchange proposes to relocate current Supplementary Material .02 to Options 4, Section 5 to new Options 4, Section 6, as described below.

[5] The terms ''Commission'' or ''SEC'' mean the Securities and Exchange Commission (SEC), established pursuant to the Act. *See* General 1(b)(7).

class is delisted by the Exchange, in which case the Exchange may designate another options class to replace the delisted class. If a designated options class is delisted by the Exchange but continues to trade on at least one options exchange, the options class shall be subject to the limitations on listing new series set forth in subparagraph (i) above unless designated by another exchange.

(iv) If the Exchange that has designated five options classes pursuant to subparagraph (iii) above requests that one or more additional options classes be excepted from the limitations on listing new series set forth in subparagraph (i) above, the additional options class(es) shall be so designated upon the unanimous consent of all exchanges that trade the options class(es). Additionally, pursuant to the Exchange's request, the percentage range for the listing of new series may be increased to more than 100% above and below the price of the underlying security for an options class, by the unanimous consent of all exchanges that trade the designated options class.

Exceptions for an additional class or for an increase of the exercise price range shall apply to all standard expiration months existing at the time of the vote, plus the next standard expiration month to be added, and also to any non-standard expirations that occur prior to the next standard monthly expiration.

The Exchange believes that the addition of this rule text will harmonize NOM's Rule to ISE's Options 4, Section 6 as well as BX Options 4, Section 6 and also memorialize certain aspects of the Options Listing Procedures Plan so that market participants will have ease of reference in locating language concerning the Options Listing Procedures Plan.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] 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 Exchange's proposal to make a non-substantive amendment to Options 4, Section 3 to add the more commonly used term ''ETN'' next to ''Index-Linked Securities'' will allow Participants to search the rule text using the term ''ETN''.

Amending Options 4, Section 5 to relocate rule text within the related listing program will make the rule easier to understand. The rule text being relocated is not amended by this proposal. The remainder of the rule changes within Options 4, Section 5 are non-substantive and intended to provide clarity to the rule text.

Relocating current Supplementary Material .02 to Options 4, Section 5 to new Options 4, Section 6 and titling the section ''Select Provisions of Options Listing Procedures Plan'' will harmonize NOM's listing rules with those of ISE and BX. Further, the Exchange believes that the addition of rule text within Options 4, Section 6, similar to ISE Options 4, Section 6 and BX Options 4, Section 6, will provide market participants with ease of reference in locating language concerning the Options Listing Procedures Plan.

The Exchange believes that the proposed amendments are consistent with the Act and the protection of investors and the general public because the amendments bring greater clarity to NOM's listing rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes are non-substantive and are intended to provide greater clarity.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. As the proposed rule change raises no novel issues and promotes clarity and consistency within the Exchange's options listing rules, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2020–075 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2020–075. This file number should be included on the subject line if email is used. To help the Commission process and review your

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2020–075, and should be submitted on or before December 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25380 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90403; File No. SR–CboeBZX–2020–084]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee Schedule To Correct Drafting Error in a Footnote

November 12, 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 November 9, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/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 its fee schedule to correct an inadvertent drafting error. Specifically, the Exchange submitted a rule filing on September 11, 2020 to amend the Fee Schedule,[3] which, among other things, amended the standard rates for orders that add liquidity in securities priced under $1.00 by providing for a standard rebate of $0.00009 per share (''September Filing''). As discussed in the September Filing, this change was intended to apply solely to orders yielding fee codes B, V and Y that add liquidity to the Exchange. Indeed, the filing specifically provided that this new standard rebate for orders in securities priced below $1.00 would be applied to ''corresponding fee codes that add liquidity (*i.e.,* B, V and Y)''. However, the proposed fee change incorrectly reflected the proposed $0.00009 subdollar rebate in footnote 7 of the Fee Schedule, which is appended not only to fee codes B, V and Y, but also to fee codes HB, HI, HV, HY, RP and ZA. As a result of this drafting error, the Fee Schedule incorrectly indicates that the $0.00009 subdollar rebate that was introduced for orders yielding fee codes B, V and Y in the September Filing also applies to fee codes HB, HI, HV, HY, RP and ZA. Therefore, the Exchange proposes to correct this inadvertent drafting error by removing footnote 7 from fee codes B, V and Y and adopting new footnote 19, appended to fee codes B, V and Y, to reflect the $0.00009 rebate for orders in securities priced below $1.00, as well as revising footnote 7 to provide, as it did prior to the September Filing, that no charge or rebate will be applied to orders in securities priced below $1.00 that yield the fee codes to which footnote 7 remains appended (HB, HI, HV, HY, RP and ZA). The Exchange notes that the proposed rule change is merely corrective in nature and does not change any rates that are currently applied to orders that yield fee codes B, V, Y, HB, HI, HV, HY, RP and ZA.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[4] in general, and furthers the objectives of Section 6(b)(4),[5] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89974 (September 23, 2020), 85 FR 61071 (September 29, 2020) (SR–CboeBZX–2020–071).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78f.(b)(5).

unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory as it does not change the fees or rebates assessed by the Exchange, but rather corrects an inadvertent drafting error that amended a footnote in the Fee Schedule appended to fee codes for which the Exchange did not intend the rebate change proposed in the September Filing to apply. As an unintended result of a drafting error in the September Filing to change language in footnote 7 to reflect updated rebates applicable only to orders that yield fee codes B, V and Y, the Fee Schedule is missing rebate-related language that applies to orders that yield fee codes HB, HI, HV, HY, RP and ZA, to which footnote 7 is also appended. The Exchange believes that adopting footnote 19 to instead reflect the recently adopted rates for orders in securities priced below $1.00 that yield fee codes B, V and Y and revising footnote 7 to again reflect the correct rates for the fee codes to which it is appended (HB, HI, HV, HY, RP and ZA) would reduce confusion around the Exchange's current rates and ensure that these fees are appropriately referenced in the Fee Schedule. The rates described in the proposed language in footnote 7 are the same as the rates identified for fee codes HB, HI, HV, HY, RP and ZA prior to the inadvertent change to this language in the September Filing, and the Fee Schedule is also being amended to explicitly provide for the new rates applicable to fee codes B, V and Y, pursuant to the September Filing, in proposed footnote 19. The Exchange believes that these steps will help ensure that its Fee Schedule fully and accurately represents the rates assessed for orders in securities priced below $1.00 that yield fee codes HB, HI, HV, HY, RP and ZA, as well as B, V and Y, as previously filed with the Commission. The Exchange again notes that the proposed rule change is merely corrective in nature and does not change any rates that are currently applied to orders that yield fee codes B, V, Y, HB, HI, HV, HY, RP and ZA.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change merely corrects an inadvertent drafting error and is designed to reduce potential confusion regarding the appropriate subdollar rates referenced in the footnotes in the Fee Schedule. The Exchange believes that this change would add clarity and increase transparency to the benefit of Members and investors without having any impact on competition.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and paragraph (f) of Rule 19b–4 thereunder.[8] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2020–084 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–2020–084. 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–2020–084 and should be submitted on or before December 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25384 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90396; File No. SR–FINRA–2020–029]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change Relating to Granularity of Timestamps in Trade Reports Submitted to FINRA's Equity Trade Reporting Facilities

November 12, 2020.

I. Introduction

On September 17, 2020, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act

of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to require member firms, in accordance with a Commission order granting exemptive relief from certain requirements of the Consolidated Audit Trail (''CAT'') NMS Plan,[3] to report time fields, in trade reports submitted to an equity trade reporting facility (''FINRA Facility''),[4] using the same timestamp granularity that they use to report to the CAT. The proposed rule change was published for comment in the **Federal Register** on September 29, 2020.[5] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

A. Background

Currently, FINRA's equity trade reporting rules require a member to report all time fields—including time of trade execution and, if applicable, time of trade cancellation—to a FINRA Facility in milliseconds, if the member's system captures time in milliseconds; otherwise a report in seconds is permissible.[6] However, FINRA's CAT Compliance Rule[7] requires an Industry Member[8] to report a timestamp for a Reportable Event,[9] including a trade execution, to the CAT's Central Repository[10] in milliseconds and, if the member's system captures time in finer increments, to report in such finer increments up to nanoseconds (except as otherwise provided under FINRA Rule 6860 for Manual Order Events).[11] Thus, currently there is a difference between the timestamp granularity requirements applicable to member firms reporting to the FINRA Facilities (up to milliseconds) and to the CAT (up to nanoseconds).

On June 11, 2020, the Commission granted the CAT NMS Plan Participants (''Participants'') exemptive relief from, in pertinent part, Section 6.4(d)(ii)(B) of the CAT NMS Plan, which states that each Participant, through its CAT Compliance Rule, must require its Industry Members to record and report to the Central Repository a cancelled trade indicator for any trade that is cancelled. In their request for exemptive relief, the Participants explained that the FINRA Facility Data,[12] which would contain cancelled trade indicators, are required to be reported to the Central Repository in each instance currently required under the CAT NMS Plan. Industry Members would continue to be required to submit either a trade report or a trade cancellation with the requisite information to a FINRA Facility, in accordance with existing rules set by each Participant for its members. For a cancelled trade, an Industry Member would continue to be required to submit a trade cancellation to a FINRA Facility.

The Participants stated in their request for exemptive relief that they would require the Plan Processor[13] to link the FINRA Facility Data to Industry Member execution reports submitted to the Central Repository beginning on October 26, 2020. The Participants explained that the Compliance Rules would require an Industry Member to submit to the Central Repository an execution report submitted to a FINRA Facility for the corresponding trade report or trade cancellation, beginning on June 22, 2020. Industry Members would be required to report a unique trade identifier, beginning on October 26, 2020, that would be used by the Plan Processor to link the data, including the number of the clearing broker and cancelled trade information, with the Industry Member's execution report.[14]

Noting the current difference in the timestamp granularity requirements for Industry Members reporting to a FINRA Facility and Industry Members reporting to the Central Repository, the Participants stated in the request for exemptive relief that FINRA would seek to amend its rules and technical specifications to require the FINRA Facilities to accept timestamps to same level of granularity required by the CAT NMS Plan (which, as noted above, is nanoseconds) and to implement such changes by December 15, 2021, for the TRFs and ADF and by December 15, 2022, for the ORF.[15] FINRA explained in the Notice that, given the difference in timestamp granularity requirements between firms reporting to the FINRA Facilities and to the CAT, it is possible that the CAT could receive the time of trade cancellation in milliseconds from FINRA, while the time of trade cancellation for the same event might have been expressed in increments finer than milliseconds, had the firm reported such information directly to the CAT. In such instances, the CAT would not receive the same data that it would have received absent the exemptive relief.[16]

B. Proposed Amendments to FINRA Facility Rules

To comply with the conditions set forth in the Facility Data Exemption Order, FINRA has proposed identical amendments to FINRA Facility rules[17] that will require an Industry Member with an obligation to report an order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020) (''Facility Data Exemption Order'' or ''Order''). The Commission approved the CAT NMS Plan, as modified, on November 15, 2016. *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''CAT NMS Plan Approval Order'').

[4] The FINRA Facilities are the Alternative Display Facility (''ADF''), the FINRA/Nasdaq Trade Reporting Facilities (''TRFs''), the FINRA/NYSE TRF, and the OTC Reporting Facility (''ORF''). Member firms use the ORF to report transactions in OTC Equity Securities and use the other facilities to report transactions in NMS stocks.

[5] *See* Securities Exchange Act Release No. 88973 (September 23, 2020), 85 FR 61044 (September 29, 2020) (''Notice'').

[6] *See* FINRA Rules 6282.04 and 7130.01 (relating to the ADF); 6380A.04 and 7230A.01 (relating to the FINRA/Nasdaq TRFs); 6380B.04 and 7230B.01 (relating to the FINRA/NYSE TRF); 6622.04 and 7330.01 (relating to the ORF).

[7] *See* FINRA Rule 6860(a). ''Compliance Rule'' is defined under Section 1.1 of the CAT NMS Plan to mean ''with respect to a Participant, the rule(s) promulgated by such Participant as contemplated by Section 3.11.'' FINRA's CAT Compliance Rule is the FINRA Rule 6800 Series (Consolidated Audit Trail Compliance Rule).

[8] ''Industry Member'' is defined under FINRA Rule 6810(s) to mean a ''member of a national securities exchange or a member of a national securities association that is required to record and report information pursuant to the CAT NMS Plan and [the FINRA] Rule 6800 Series.''

[9] ''Reportable Event'' is defined under Section 1.1 of the CAT NMS Plan and FINRA Rule 6810(kk) to include, ''but is not limited to, the original receipt or origination, modification, routing, execution (in whole or in part) and allocation of an order, and receipt of a routed order.''

[10] ''Central Repository'' is defined under Section 1.1 of the CAT NMS Plan and FINRA Rule 6810(j) to mean ''the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT'' pursuant to Rule 613 of Regulation NMS and the CAT NMS Plan.

[11] ''Manual Order Event'' is defined under FINRA Rule 6810(x) to mean ''a non-electronic communication of order related information for which Industry Members must record and report the time of the event.''

[12] ''FINRA Facility Data'' was defined by the Participants in their request for exemptive relief to include the clearing number of the clearing broker and the canceled trade indicator. *See* Facility Data Exemption Order, 85 FR at 36631.

[13] ''Plan Processor'' is defined under Section 1.1 of the CAT NMS Plan as ''the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and Sections 4.3(b)(i) and 6.1, and with regard to the Initial Plan Processor, the Selection Plan, to perform the CAT processing functions required by SEC Rule 613'' and set forth in the CAT NMS Plan.

[14] *See* Facility Data Exemption Order, 85 FR at 36632.

[15] *See id.*

[16] For example, assume that a firm cancels a trade at 10:30:00.123456 and reports the cancellation to a FINRA Facility with a trade cancellation time of 10:30:00.123 (the timestamp is truncated at the millisecond level for reporting to the FINRA Facility). As a consequence of the Facility Data Exemption Order, the data in the CAT reflects the time of cancellation as 10:30:00.123, which is the time submitted in the FINRA Facility Data. Had the firm reported the trade cancellation directly to the CAT, the data in the CAT would reflect the time of cancellation as 10:30:00.123456. *See* Notice, 85 FR at 61045.

[17] *See* FINRA Rules 6282.04, 6380A.04, 6380B.04, 6622.04, 7130.01, 7230A.01, 7230B.01 and 7330.01.

execution event to the Central Repository pursuant to FINRA's CAT Compliance Rule to report the time field (including time of execution and time of cancellation, if applicable) in the trade report submitted to a FINRA Facility using the same timestamp granularity, as set forth in FINRA Rule 6860 (nanoseconds), that the member would use to report to the CAT.

Because almost all trades that must be reported to a FINRA Facility also must be reported to the CAT,[18] a member firm with a trade reporting obligation under the FINRA Facility rules also has a CAT reporting obligation, and is therefore already subject to the timestamp granularity requirements of the CAT Compliance Rule. Given that a CAT Reporter [19] must have systems that capture time in at least milliseconds to comply with CAT requirements, FINRA expects that firm to report to the appropriate FINRA Facility in milliseconds under FINRA's current trade reporting rules.[20] Once the proposed rule change is implemented, any firm capturing and reporting time to the CAT in increments finer than milliseconds would be required to report time to the FINRA Facilities in such finer increments, up to nanoseconds.[21]

In accordance with the conditions of the Facility Data Exemption Order,[22] FINRA has stated that the implementation date of the proposed rule change relating to the TRFs and ADF will be no later than December 15, 2021, and the implementation date of the proposed rule change relating to the ORF will be no later than December 15, 2022. FINRA has represented that it will provide advance notice of the implementation dates, including publication of a *Regulatory Notice,* as well as updated technical specifications and testing schedule, at least 120 days prior to the implementation dates.

III. Discussion and Commission Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[23] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[24] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

On June 11, 2020, the Commission issued the Facility Data Exemption Order, which among other things granted an exemption from certain provisions of the CAT NMS Plan relating to the reporting of cancelled trade indicators.[25] As a result of that Order, FINRA Facility Data submitted to the Central Repository can be the source of canceled trade indicators rather than records submitted to the Central Repository directly by Industry Members. However, the granularity of timestamps that the Industry Members are required to report to the Central Repository differs from the granularity that FINRA members are currently required to report to the FINRA Facilities. Therefore, the Commission conditioned the Order on FINRA amending the FINRA Facility rules to accept timestamps up to the granularity required by the CAT NMS Plan.[26]

The Commission previously has found that the CAT NMS Plan is consistent with the Act because, among other things, it will help ensure that regulators can sequence order and execution events with a reasonable degree of accuracy.[27] When approving the CAT NMS Plan, the Commission stated that, given the speed with which the industry currently handles orders and executes trades, it is important that the CAT utilize a timestamp that will enable regulators to reasonably sequence the order in which Reportable Events occur.[28] The Commission believed that timestamps in increments greater than a millisecond would undermine the improved ability to sequence events with any reasonable degree of reliability.[29] The Commission concluded that this approach will improve the accuracy of order event records, particularly those occurring rapidly across multiple markets, without imposing undue burdens on market participants.[30]

The Commission finds that the proposed rule change is consistent with the Act because it satisfies a condition that the Commission imposed in the Facility Data Exemption Order. As a result of the proposed rule change, the granularity of time stamps reported to the FINRA Facilities will match the granularity of time stamps reported by Industry Members directly to the CAT. Thus, the proposed rule change will facilitate the sequencing event reports in the CAT, thereby improving the ability of SROs and the Commission to utilize the CAT to oversee the securities markets. By supporting the efficient implementation of the CAT NMS Plan, the proposed rule change furthers the principles of the Act identified by the Commission when approving the CAT NMS Plan.[31]

The proposal also is consistent with the Act because the implementation schedule proposed by FINRA complies with Facility Data Exemption Order.[32] Pursuant to the terms of that Order, FINRA has represented that the implementation date of the proposed rule change relating to the TRFs and ADF will be no later than December 15, 2021, and the implementation date relating to the ORF will be no later than December 15, 2022. Moreover, FINRA has represented that it will provide advance notice of the implementation date at least 120 days prior to the

[18] In the Facility Data Exemption Order, the Commission described four limited instances, outlined by the Participants, in which an Industry Member would be unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report. *See* Facility Data Exemption Order, 85 FR at 36632.

[19] "CAT Reporter" is defined under Section 1.1 of the CAT NMS Plan to mean "each national securities exchange, national securities association and Industry Member that is required to record and report information to the Central Repository pursuant to SEC Rule 613(c)."

[20] *See* Notice, 85 FR at 61045. Small Industry Members that do not currently report to OATS are not required to begin reporting to the CAT until December 13, 2021. *See* FINRA Rule 6830(a)(2)(E). Accordingly, FINRA would not require these non-OATS reporters to report to a FINRA Facility in milliseconds until December 13, 2021, unless their systems currently capture milliseconds.

[21] Because the FINRA Facilities do not currently accept timestamps more granular than milliseconds, FINRA is unable to estimate, based on trade report information, how many firms capture or have the ability to report trade events in increments more granular than milliseconds. In the Notice, FINRA provided statistics with respect to the number and percentage of order execution events reported with a timestamp granularity finer than milliseconds. *See* Notice, 85 FR at 61045.

[22] *See* 85 FR at 36632.

[23] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78o–3(b)(6).

[25] *See* Facility Data Exemption Order, 85 FR 36631.

[26] The Commission imposed other conditions in the Facility Data Exemption Order that are not germane to this proposed rule change.

[27] *See* CAT NMS Plan Approval Order, 81 FR at 84787–88.

[28] For example, the ability to reconstruct market activity, perform other detailed market analyses, or determine whether a series of orders rapidly entered by a particular market participant is manipulative or otherwise violates SRO rules or federal securities laws requires the audit trail to sequence each order and event accurately. *See id.,* 81 FR at 84788, n. 1632.

[29] *See id.,* 81 FR at 84788.

[30] *See id.* The Commission recognizes that, as stated on Appendix C–25 of the CAT NMS Plan, an accurately-sequenced record of orders cannot be based solely on the timestamps provided by CAT Reporters.

[31] *See, e.g., id.,* 81 FR at 84698 (describing the background and impetus behind the Commission's adoption of Rule 613 of Regulation NMS).

[32] *See* Facility Data Exemption Order, 85 FR at 36632.

implementation date. This schedule appears reasonably designed to afford members sufficient time to come into compliance with the proposed rule change while adhering to the conditions set forth in the Facility Data Exemption Order.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[33] that the proposed rule change (SR–FINRA–2020–029) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25381 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

[33] 15 U.S.C. 78s(b)(2).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–385, OMB Control No. 3235–0441]

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 18f–3

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''Paperwork Reduction Act''), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 18f–3 (17 CFR 270.18f–3) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) exempts from section 18(f)(1) a fund that issues multiple classes of shares representing interests in the same portfolio of securities (a ''multiple class fund'') if the fund satisfies the conditions of the rule. In general, each class must differ in its arrangement for shareholder services or distribution or both, and must pay the related expenses of that different arrangement. The rule includes one requirement for the collection of information. A multiple class fund must prepare, and fund directors must approve, a written plan setting forth the separate arrangement and expense allocation of each class, and any related conversion features or exchange privileges (''rule 18f–3 plan''). Approval of the plan must occur before the fund issues any shares of multiple classes and whenever the fund materially amends the plan. In approving the plan, the fund board, including a majority of the independent directors, must determine that the plan is in the best interests of each class and the fund as a whole.

The requirement that the fund prepare and directors approve a written rule 18f–3 plan is intended to ensure that the fund compiles information relevant to the fairness of the separate arrangement and expense allocation for each class, and that directors review and approve the information. Without a blueprint that highlights material differences among classes, directors might not perceive potential conflicts of interests when they determine whether the plan is in the best interests of each class and the fund. In addition, the plan may be useful to Commission staff in reviewing the fund's compliance with the rule.

Based on an analysis of fund filings, the Commission estimates that there are approximately 7,293 multiple class funds offered by 990 registrants. The Commission estimates that each of the 990 registrants will make an average of 0.5 responses annually to prepare and approve a written 18f–3 plan. The Commission estimates each response will take 6 hours, requiring a total of 3 hours per registrant per year. Thus the total annual hour burden associated with these requirements of the rule is approximately 2,970 hours.[1]

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. The collection of information under rule 18f–3 is mandatory. The information provided under rule 18f–3 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections 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.

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: November 12, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25352 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

[1] 3 hours per registrant per year × 1,045 registrants = 3,135 hours per year.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90405]

Order Granting a Temporary Conditional Exemption Pursuant to Section 36 of the Securities Exchange Act of 1934 (''Exchange Act'') and Rule 608(e) of Regulation NMS Under the Exchange Act, Relating to the Reporting of Certain Activities on the Floor of National Securities Exchanges and Certain Activities by Industry Members Off Exchange Floors, as Required by Section 6.4(d) of the National Market System Plan Governing the Consolidated Audit Trail

November 12, 2020.

I. Introduction

By letter dated July 1, 2020, BOX Exchange LLC (''BOX''), Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc. (''CBOE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors Exchange LLC, Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, NASDAQ BX, LLC, Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, NASDAQ PHLX LLC (''PHLX''), The NASDAQ Stock Market LLC, New York Stock Exchange LLC (''NYSE''), NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), NYSE Chicago, Inc., NYSE National, Inc., and Long Term Stock Exchange, Inc. (collectively, the ''Participants'' or ''SROs'') requested

that the Securities and Exchange Commission (''Commission'' or ''SEC'') grant temporary exemptive relief to the Participants from the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan''),[1] pursuant to its authority under Section 36 of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 608(e) of Regulation NMS under the Exchange Act, from certain reporting requirements in Section 6.4(d) of the CAT NMS Plan relating to certain activities on the floors of national securities exchanges and certain activities by Industry Members off exchange floors.[3]

Section 36 of the Exchange Act grants the Commission the authority, with certain limitations, to ''conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.'' [4] Under Rule 608(e) of Regulation NMS, the Commission may ''exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system.'' [5]

For the reasons set forth below, this Order grants the Participants' request for a temporary exemption from Section 6.4(d) of the CAT NMS Plan as set forth in the July 1, 2020 Exemption Request, expiring on July 31, 2023.

II. Request for Relief

In the July 1, 2020 Exemption Request, the Participants request that the Commission exempt each Participant from the requirement in Section 6.4(d) of the CAT NMS Plan that each Participant, through its Compliance Rule, require its Industry Members to record and electronically report to the Central Repository: (1) Floor broker verbal announcements of firm bids and offers on an exchange trading floor that are otherwise reported as systematized orders; and (2) market maker verbal announcements of firm quotes on an exchange trading floor, to the extent either are considered orders reportable under Rule 613 of Regulation NMS, the CAT NMS Plan and the Compliance Rules, until July 31, 2023. As a condition to this exemptive relief, the Participants state that they would continue to require that firm verbal interest on an exchange floor (which includes both floor broker verbal announcements of firm bids and offers and market maker verbal announcements of firm quotes) be expressed pursuant to exchange rules approved by the Commission,[6] and that any such firm verbal interest expressed by a floor broker must be related to a CAT-reportable systematized order, and any resulting trade must be reported to CAT.

In addition, the Participants request that the Commission exempt each Participant from the requirement in Section 6.4(d) of the CAT NMS Plan that each Participant, through its Compliance Rule, require its Industry Members to record and electronically report to the Central Repository the following communications that occur ''upstairs,'' [7] to the extent such are considered reportable under Rule 613 of Regulation NMS, the CAT NMS Plan and the Compliance Rules, until July 31, 2023: (1) Telephone discussions between an Industry Member and a client that may involve firm bid and offer communications; and (2) unstructured electronic and verbal communications that are not currently captured by Industry Member order management or execution systems (*e.g.,* Bloomberg chats, text messages).

A. Exchange Floor Activity

The Participants state that on all exchanges with floor trading,[8] each order must be systematized upon receipt by the floor broker on the floor of the exchange.[9] The Participants further state that an order is considered systematized: (1) When it is sent electronically to the floor broker's system at the exchange; or (2) when the order is manually systematized by the floor broker upon receipt outside of the floor broker's system and prior to representation in the floor trading crowd.[10] To the extent a floor broker is not holding a systematized order, the floor broker is not eligible to represent any firm bid or offer, or to request firm quotes from in-crowd market participants on the floor of an exchange.[11] The Participants state that all firm bids or offers represented by a floor broker must be associated with orders that have already been systematized, and that any activity by the floor broker prior to systemization cannot be related to an order, bid or offer pursuant to the CAT NMS Plan.[12] As a result of the systematization requirements, all orders represented verbally by a floor broker on an exchange floor are required to be captured in exchange systems and, under CAT requirements, the floor broker's receipt of the order, and any modification, electronic route, cancellation, or execution of the order is subject to CAT reporting.[13] The Participants believe that two verbal events on exchange floors may be CAT-reportable: Floor broker announcements of firm orders and market maker announcements of firm quotes.

The Participants state that that reporting of either of these two verbal events were not contemplated when the Commission and the Participants were considering the cost and impact of the CAT NMS Plan.[14] The Participants further state that requiring these elements to be reported to CAT would have a significant and costly impact to exchange floors, to floor broker and market maker business models, and to market structure; and the data being captured would provide minimal added regulatory benefit, likely not justified by

[1] The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''CAT NMS Plan Approval Order'').

[2] 15 U.S.C. 78mm(a)(1).

[3] *See* letter from the Participants to Vanessa Countryman, Secretary, Commission, dated July 1, 2020 (the ''July 1, 2020 Exemption Request''). Unless otherwise noted, capitalized terms are used as defined in the CAT NMS Plan. MEMX LLC was added as a Participant to the CAT NMS Plan on June 5, 2020. *See* Securities Exchange Act Release No. 89306 (July 13, 2020), 85 FR 43626 (July 17, 2020).

[4] 15 U.S.C. 78mm(a)(1).

[5] 17 CFR 242.608(e).

[6] Exchanges with floors currently have rules that govern the operation of the trading floor, from original receipt and systematization of an order by a floor broker to execution, including rules describing how verbal interest on an exchange floor is to be communicated. *See, e.g.,* July 1, 2020 Exemption Request, Exhibit A (describing the process for relevant exchanges).

[7] ''Upstairs'' is a term used to describe the off-exchange market. For example, trading that occurs within a broker-dealer firm or between two broker-dealers in the over-the-counter market would be described as occurring ''upstairs.''

[8] Currently, these exchanges are NYSE, NYSE American, NYSE Arca, CBOE, PHLX and BOX.

[9] *See* July 1, 2020 Exemption Request, *supra* note 3, at 3.

[10] *See id.* at 3.

[11] *See* July 1, 2020 Exemption Request, *supra* note 3, at 3. *See also* NYSE Rule 7.35B, NYSE Arca Rule 6.67–O, NYSE American Rule 955NY and Cboe Rule 5.91(a)(4).

[12] *See* July 1, 2020 Exemption Request, *supra* note 3, at 3. *See also* NYSE Rule 7.35B, NYSE Arca Rule 6.67–O, NYSE American Rule 955NY and Cboe Rule 5.91(a)(4).

[13] *See* July 1, 2020 Exemption Request, *supra* note 3, at 3.

[14] *See id.* at 6–7.

the costs that would be required to create systems to capture the activity.[15]

The Participants explain that floor brokers and floor market makers will ultimately be required to expend significant effort and funds to provide the data necessary to report verbal orders and quotes to CAT.[16] The Participants state that if verbal floor activity were required to be reported to CAT, Industry Members operating on exchange floors would need to create a process or system to electronically record in real time the firm data being verbally communicated on exchange floors and to merge that data into the information tracked electronically.[17] The Participants state that neither the exchanges with floors nor Industry Members currently collect or have the means to collect the data for verbal activity on the floor for purposes for CAT reporting and the measures necessary to put such systems in place would significantly disrupt floor trading.[18] The Participants further state that requiring such reporting would likely cause market makers to miss participation in fast-changing markets, and no similar burden would be borne by electronic market makers, whose data collection for CAT reporting will not impact their real-time ability to provide liquidity to the market.[19]

B. Unstructured Verbal and Electronic Activity

The Participants believe that much unstructured verbal and electronic activity by Industry Members does not involve firm orders and is thus not subject to CAT reporting.[20] However, the Participants believe that two types of verbal and unstructured electronic upstairs activity may involve firm orders that would be subject to CAT reporting: (1) Verbal telephone discussions between an Industry Member and a client and (2) unstructured electronic communications that are not currently captured by Industry Member order management or execution systems.

The Participants state that telephonic discussions and unstructured electronic upstairs activities were not contemplated as being CAT reportable at the time the Commission adopted Rule 613 of Regulation NMS and the CAT NMS Plan.[21] The Participants state that the industry has provided the Participants with cost projections for capturing and reporting upstairs negotiations, which are estimated to be approximately $485 million to $590 million.[22] The Participants further state that these cost projections recognize that Industry Members do not currently collect data for these scenarios, and do not have the means today to collect such data. The Participants also explain that there is uncertainty whether necessary information can be captured with today's technology or personnel in a reliable, accurate and consistent manner.[23] The Participants do not believe this information will add much value to the data available in CAT and any minimal added regulatory benefit would be outweighed by costs imposed on, and adverse impact on, Industry Members.[24]

The Participants state that the changes required to capture and report verbal and unstructured electronic upstairs activity would cause significant and adverse changes to existing industry practices and business models, which would conflict with one of the underlying principles of the CAT.[25] The Participants also state that reporting of this activity may also slow trading processes at certain broker-dealers, and/or may increase the time to initiate a trade, causing clients potentially to receive less advantageous pricing for investors.[26] The Participants also believe that if required to be reported, Industry Members may modify their workflows to rely more heavily on indications of interest or similar methods outside the definition of an order, thereby avoiding CAT reporting requirements for that activity, which could have a negative impact on the price discovery process as well as existing workflows.[27]

The Participants also state that identifying and reporting of verbal or unstructured electronic communications is difficult and given the subjective nature of determining whether or not a bid or offer is firm, CAT reporting of such communications will be variable and inconsistent.[28] The Participants state that Industry Members and different individuals could reach different conclusions about whether or not specific verbal or unstructured electronic communications meet the elements of a CAT Reportable Event and Industry Members on opposite sides of a bid/offer may capture the same activity differently, resulting in a misleading view of the transaction.[29]

III. Discussion of Participants' Exemption Request

The Commission has carefully considered the information provided by the Participants in support of the Participants' exemption request. The Commission believes that granting temporary exemptive relief is, pursuant to Section 36 of the Exchange Act, appropriate in the public interest and consistent with the protection of investors, and that pursuant to Rule 608(e), this exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and the perfection of a national market system.

Rule 613(j)(9) of Regulation NMS and Section 1.1 of the CAT NMS Plan defines the term ''reportable event'' as including, but not limited to, the original receipt or origination, modification, cancellation, routing, and execution (in whole or in part) of an order, and receipt of a routed order.[30] The term ''order'' is defined in Rule 613(j)(8) of Regulation NMS and Section 1.1 of the CAT NMS Plan as including: (i) Any order received by a member of a national securities exchange or national securities association from any person; (ii) any order originated by a member of a national securities exchange or national securities association; or (iii) any bid or offer.[31] ''Bid'' and ''offer'' are defined in Regulation NMS as the bid price or offer price communicated by a member of an exchange or association to any broker-dealer or to any customer, at which it is willing to buy or sell one or more round lots of an NMS security, as principal or agent, but excluding indications of interest.[32]

Rule 613 and the CAT NMS Plan both require the capture and reporting of quotes and orders that meet the definition of a CAT reportable event, which includes verbal quotes and orders. The Commission believes that many unstructured verbal or manual communications on exchange floors and ''upstairs'' are reportable events under Rule 613 and the CAT NMS Plan because firm verbal quotes and orders,

[15] *See id.* at 6.

[16] *See id.* at 6.

[17] *See id.* at 9.

[18] *See* July 1, 2020 Exemption Request, *supra* note 3, at 6.

[19] *See id.* at 8.

[20] *See id.* at 9.

[21] *See id.* at 9–10.

[22] *See id.* at 10.

[23] *See* July 1, 2020 Exemption Request, *supra* note 3, at 10. The Commission understands that this estimation is based on industry cost projections and assumes significant manual intervention is necessary to capture this information.

[24] *See id.*

[25] *See id.*

[26] *See id.*

[27] *See id.*

[28] *See* July 1, 2020 Exemption Request, *supra* note 3, at 10.

[29] *See id.* at 10.

[30] *See* 17 CFR 242.613(j)(9).

[31] *See* 17 CFR 242.613(j)(8).

[32] *See* 17 CFR 242.600(b)(8).

whether they occur on an exchange floor or ''upstairs,'' are reportable to CAT if they are a firm bid or offer. As the Participants note, firm indications of a willingness to buy or sell a security are orders, bids, or offers and have reportable events associated with them pursuant to the CAT NMS Plan.[33] However, indications of interest and other verbal negotiations that do not constitute firm quotes or orders are not reportable to CAT, and many unstructured verbal or manual communications on exchange floors and ''upstairs'' are not reportable to CAT because they are not firm.

The Commission disagrees with the Participants' statement that the verbal announcement of already systematized and reported orders and of firm quotes on exchange floors, firm bid and offer communications in verbal telephone discussions between an Industry Member and a client, and firm orders in unstructured electronic communications that are not currently captured by Industry Member order management or execution systems were not contemplated as being CAT-reportable at the time the Commission adopted Rule 613 and the approval of the CAT NMS Plan. Verbal quotes and orders are a subset of ''Manual Order Events,'' which, as defined by the CAT NMS Plan, are non-electronic communications of order-related information for which CAT Reporters must record and report the time of the event.[34] Prior to approval of the CAT NMS Plan, the Participants requested and were granted exemptive relief from the requirement in Rule 613(d)(3) of Regulation NMS that, for Manual Order Events, each CAT Reporter record and report details for reportable events in timestamps to the millisecond.[35] In support of the request, the SROs listed examples illustrating reportable events involving the non-electronic communication of order-related information for which CAT Reporters must record and report the time of the event under Rule 613, and, among other things, noted that ''a floor broker at an exchange that represents an order on the floor of the exchange may have to capture the time stamp of order events manually.''[36]

The Participants state that capturing this verbal activity would be costly, and provide minimal added regulatory benefit likely not justified by the costs. In particular, as noted above, Industry Members have provided Participants with cost projections for capturing and reporting upstairs negotiations, which are estimated to be approximately $485M to $590M. The Commission acknowledges the current difficulties of implementing reporting of such events, as described by the Participants in the July 1, 2020 Exemption Request. Currently, the exchanges with floors and Industry Members do not have the means to collect the information necessary for reporting verbal activity on exchange floors or upstairs. At the same time, the Commission believes that the collection of verbal quotes and orders would provide regulatory benefits that do not currently exist today and disagrees with the Participants statement that capturing such data would provide minimal added regulatory benefit.[37] Such reporting would help regulators better identify potential violations of securities laws, regulations, and exchange rules, including violations of best execution obligations, firm bid/offer obligations and exchange priority rules. For example, the reporting of firm verbal quotes from floor market makers would allow regulators to determine whether a market maker has ''backed away'' from a firm quote. Currently, regulators do not have detailed information relating to most verbal quotes and orders and such information would allow regulators to more capably perform regulatory and surveillance functions, and the Commission does not believe it is appropriate to exclude such quotes and orders from CAT reporting, which often are more complex and/or involve larger-sized orders, particularly on options trading floors and trading floors for proprietary products.

Given the concerns expressed by the Participants, the Commission believes the Participants' request to delay the reporting requirements for verbal quotes and orders is reasonable. While including verbal quotes and orders in the CAT will provide regulatory benefits, the Commission acknowledges that the reporting of such orders and quotes involves complexity and/or costs, especially because capture of this information may require significant manual human intervention. The Commission believes that granting temporary exemptive relief to delay the reporting of verbal quotes and orders could allow Participants and Industry Members time to develop or implement technological changes necessary to capture this information at a lower cost. The Commission further believes that over time, the costs of capturing this CAT reportable information could decline due to technological or business developments, such as through the usage of artificial intelligence or automated processes to capture and report such information, instead of reliance on the manual capture of order information.

Based on the foregoing, pursuant to Section 36 of the Exchange Act, it is appropriate in the public interest and consistent with the protection of investors, and pursuant to Rule 608(e), it is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and the perfection of a national market system to grant temporary relief for the reporting of: (1) Floor broker verbal announcements of firm orders on an exchange that are otherwise reported as systematized orders; (2) market maker verbal announcements of firm quotes on an exchange trading floor and; (3) telephone discussions between an Industry Member and a client that involve firm bid and offer communications; and (4) unstructured electronic communications that are not currently captured by Industry Member order management or execution systems. Granting temporary exemptive relief until July 31, 2023, which is the date requested by Participants in the July 1, 2020 Exemption Request, and which is approximately one year after the date by which the Participants previously estimated that the CAT would be fully implemented, July 11,

[33] *See* July 1, 2020 Exemption Request, *supra* note 3, at 3.

[34] *See* CAT NMS Plan at Section 1.1 (defining ''Manual Order Events'' as ''a non-electronic communication of order-related information for which CAT Reporters must record and report the time of the event'').

[35] *See* Securities Exchange Act Release No. 77265 (March 1, 2016), 81 FR 11856 (March 7, 2016). The Commission granted exemptive relief conditioned upon (1) Manual Order Events being recorded and reported with granularity to the second; (2) Manual Order Events being identified as such in the CAT; and (3) the Electronic Capture of Manual Order Events being recorded and reported to the millisecond. Manual Order Events are defined in the CAT NMS Plan as a non-electronic communication of order-related information for which CAT Reporters must record and report the time of the event.

[36] *See* letter from BATS Exchange, Inc., BATS Y-Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, ISE Gemini, LLC, Miami International Securities Exchange LLC, The Nasdaq Stock Market LLC, Nasdaq OMX BX, Inc., Nasdaq OMX PHLX LLC, National Stock Exchange, Inc., NYSE Arca, Inc., New York Stock Exchange LLC, and NYSE MKT LLC to Brent J. Fields, Secretary, Commission, dated January 30, 2015, at 33, *available at: https://www.sec.gov/rules/exorders/2016/finra-incoming-letter-013015.pdf.*

[37] *See* July 1, 2020 Exemption Request, *supra* note 3, at 6 and 10.

2022,[38] would provide CAT Reporters the time to fully consider how to report such events and create the necessary technological and process changes required to capture these required quotes and orders while minimizing potential business disruptions and impacts to existing workflows. As a condition to this relief, the Participants must provide the Commission a written status update on the reporting of these quotes and orders by July 31, 2022, including the estimated costs of reporting these quotes and orders and an implementation plan for the reporting of these quotes and orders.

IV. Conclusion

The Commission believes it is appropriate to grant temporary exemptive relief that exempts each Participant from the requirement in Section 6.4(d) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members to record and electronically report to the Central Repository the following communications, until July 31, 2023: (1) Floor broker verbal announcements of firm orders on an exchange that are otherwise reported as systematized orders; (2) market maker verbal announcements of firm quotes on an exchange trading floor; (3) telephone discussions between an Industry Member and a client that may involve firm bid and offer communications; and (4) unstructured electronic and verbal communications that are not currently captured by Industry Member order management or execution systems. As a condition to this relief, the Participants must provide the Commission a written status update on the reporting of these quotes and orders by July 31, 2022, including the estimated costs of reporting these quotes and orders and an implementation plan for the reporting of these quotes and orders. Furthermore, as a condition to this exemptive relief, Participants must continue to require that firm verbal interest on an exchange floor be expressed pursuant to exchange rules approved by the Commission and Participants must require that any firm verbal interest expressed by a floor broker must be related to a CAT-reportable systematized order, and any resulting trade must be reported to CAT.

Accordingly, *it is hereby ordered,* pursuant to Section 36(a)(1) of the Exchange Act,[39] and Rule 608(e) of the Exchange Act[40] that the Participants are granted an exemption, until July 31, 2023, from the requirement in Section 6.4(d) of the CAT NMS Plan that requires each Participant, through its Compliance Rule, to require its Industry Members to record and electronically report to the Central Repository: (1) Floor broker verbal announcements of firm orders on an exchange that are otherwise reported as systematized orders; (2) market maker verbal announcements of firm quotes on an exchange trading floor; (3) telephone discussions between an Industry Member and a client that may involve firm bid and offer communications; (4) unstructured electronic and verbal communications that are not currently captured by Industry Member order management or execution systems (*e.g.,* Bloomberg chats, text messages), subject to the conditions described above.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25393 Filed 11–17–20; 8:45 am]

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[38] *See* Securities Exchange Act Release No. 88890 (May 15, 2020), 85 FR 31322, 31334 (May 22, 2020).

[39] 15 U.S.C. 78mm(a)(1).

[40] 17 CFR 242.608(e).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–399, OMB Control No. 3235–0456]

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:
Form 24F–2

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 24f–2 (17 CFR 270.24f–2) under the Investment Company Act of 1940 (15 U.S.C. 80a) requires any open-end management companies (''mutual funds''), unit investment trusts (''UITs''), registered closed-end investment companies that make periodic repurchase offers under rule 23c–3 under the Investment Company Act [17 CFR 270.23c–3] (''interval funds''), or face-amount certificate companies (collectively, ''funds'') deemed to have registered an indefinite amount of securities to file, not later than 90 days after the end of any fiscal year in which it has publicly offered such securities, Form 24F–2 (17 CFR 274.24) with the Commission. Form 24F–2 is the annual notice of securities sold by funds that accompanies the payment of registration fees with respect to the securities sold during the fiscal year.

The Commission estimates that 6,794 funds file Form 24F–2 on the required annual basis. The average annual burden per respondent for Form 24F–2 is estimated to be four hours. The total annual burden for all respondents to Form 24F–2 is estimated to be 27,176 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information required by Form 24F–2 is mandatory. The Form 24F–2 filing that must be made to the Commission is available to the public. 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 requests written comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens 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.

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: November 12, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25354 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90402; File No. SR–ICEEU–2020–014]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Delivery Procedures

November 12, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 6, 2020, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(4)(ii) [4] thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed amendments is for ICE Clear Europe to amend its Delivery Procedures (the ''Delivery Procedures'') in connection with the commencement of clearing for certain European emissions futures contracts and to clarify certain defined terms.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Europe is proposing to amend Part A of its Delivery Procedures.

The Clearing House is proposing to amend the definitions of the terms ''Carbon Emissions Allowance'' or ''EUA'' to provide that such terms include allowances that are valid for determining compliance with emission limitations commitments during the period starting from 1 January 2021, with respect to the ICE Futures EUA Phase 4 Daily Futures Contract (the ''EUA Phase 4 Contract'') only, which is a new contract expected to be listed for trading by ICE Futures Europe. Other amendments to those definitions would remove unnecessary words for conciseness.

Other amendments to Part A would simplify the drafting to state that Part A applies to all ICE Deliverable EU Emissions Contracts which go to physical delivery on the expiry date (''ICE Deliverable EU Emissions Contracts''), rather than reference such contracts individually. In Part A of the Delivery Procedures, the new defined term ''ICE Deliverable EU Emissions Contracts'' would be introduced in lieu of naming the following separate contracts: ICE Futures EUA Futures Contract, ICE Futures EUA Daily Futures Contract, ICE Futures EUA Auction Contract, ICE Futures EUAA Futures Contract, ICE Futures EUAA Auction Contract, ICE Futures CER Futures Contract and ICE Futures CER Futures Daily Contract. These changes would be general drafting clarifications and improvements for improved readability and conciseness, and would not affect the substance of the Delivery Procedures.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act [6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. The proposed amendments are designed to incorporate the new EUA Phase 4 Contracts into the existing Delivery Procedures, in a manner that is similar to other EU emissions contracts and supported by ICE Clear Europe's existing financial resources, risk management, systems and operational arrangements. ICE Clear Europe believes that its financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such contract (and to address physical delivery under such contract) and to manage the risks associated with such contract. As a result, in ICE Clear Europe's view, the amendments would be consistent with the prompt and accurate clearance and settlement of the EUA Phase 4 Contract (as well as the existing cleared contracts), and the protection of investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Act.[7] (In ICE Clear Europe's view, the amendments would not affect the safeguarding of funds or securities in the custody or control of the clearing agency or for which it is responsible, within the meaning of Section 17A(b)(3)(F).[8])

In addition, Rule 17Ad–22(e)(10) [9] requires that each covered clearing agency establish and maintain transparent written standards that state its obligations with respect to the delivery of physical instruments, and establish and maintain operational practices that identify, monitor and manage the risks associated with such physical deliveries. As discussed above, the amendments would incorporate into the existing Delivery Procedures the new EUA Phase 4 Contract, in a manner similar to other EU emissions contracts and supported by ICE Clear Europe's existing financial resources, risk management, systems and operational arrangements. The amendments would also simplify and clarify the application of the existing Delivery Procedures to the other ICE Futures Europe EU emissions contracts. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Rule 17Ad–22(e)(10).[10]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The changes are being proposed in order to update the Delivery Procedures in connection with the incorporation into the existing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

[5] Capitalized terms used but not defined herein have the meaning specified in the ICE Clear Europe Clearing Rules (the ''Rules'').

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(e)(10).

[10] 17 CFR 240.17Ad–22(e)(10).

Delivery Procedures of the new EUA Phase 4 Contract and to provide general drafting clarifications and improvements for improved readability and conciseness. ICE Clear Europe believes that the new EUA Phase 4 Contracts would provide opportunities for interested market participants to engage in trading activity in this market. ICE Clear Europe does not believe the amendments would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in the new contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed amendments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 [12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2020–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2020–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2020–014 and should be submitted on or before December 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25383 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90400; File No. SR–PEARL–2020–24]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX PEARL Equities Fee Schedule

November 12, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 30, 2020, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the fee schedule applicable for MIAX PEARL Equities, an equities trading facility of the Exchange (the ''Fee Schedule'').[3] The proposed fees are scheduled to become operative November 2, 2020.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1901.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Fee Schedule applicable to MIAX PEARL Equities to increase the rebate for displayed orders [4] on the MIAX PEARL Equities Book [5] that add liquidity in securities priced at or above $1.00. The Exchange currently provides a rebate of $0.0028 per share to displayed orders that add liquidity in securities priced at or above $1.00. The Exchange now proposes to increase the rebate for displayed orders that add liquidity in securities priced at or above $1.00 to $0.0032 per share.

The purpose of this proposed change is for business and competitive reasons. As a new entrant into the equities market, the Exchange initially adopted the rebate of $0.0028 per share for displayed orders that add liquidity in securities priced at or above $1.00 in order to encourage market participants to submit displayed orders to the Exchange. The Exchange now believes that it is appropriate to increase the rebate to $0.0032 per share for displayed orders that add liquidity in securities price at or above $1.00, thereby continuing to encourage market participants to submit more displayed orders to the Exchange and increase displayed order flow. The Exchange believes that this proposal will result in encouraging market participants to submit more displayed orders to the Exchange, thereby increasing displayed order liquidity, which benefits all Exchange participants by providing more trading opportunities and tighter spreads.

The proposed rebate increase will become effective on November 2, 2020. The Exchange does not propose any other changes to the MIAX PEARL Equities Fee Schedule.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(4) of the Act [7] in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates/incentives to be insufficient. The Exchange believes that the Fee Schedule reflects a simple and competitive pricing structure, which is designed to incentivize market participants to add aggressively priced displayed liquidity and direct their order flow to the Exchange. The Exchange believes the proposed increased rebate for displayed orders that add liquidity in securities priced at or above $1.00 will continue to promote price discovery and price formation and deepen liquidity that is subject to the Exchange's transparency, regulation, and oversight as an exchange, thereby enhancing market quality to the benefit of all Equity Members [8] and investors.

In particular, the Exchange believes the proposed increase to the rebate for displayed orders in securities priced above $1.00 from $0.0028 to $0.0032 per share is reasonable because it would uniformly provide a rebate of $0.0032 per share to displayed orders in all equity securities priced at or above $1.00 traded on the Exchange. Further, the Exchange believes the proposed increased rebate will encourage additional order flow on the Exchange, which may result in greater liquidity to the benefit of all market participants on the Exchange by providing more trading opportunities. The Exchange also believes that it is reasonable, equitable and not unfairly discriminatory to provide a higher rebate to displayed orders that add liquidity than to non-displayed orders as this rebate structure is designed to incentivize Equity Members to send the Exchange displayed orders, thereby contributing to price discovery and price formation, consistent with the overall goal of enhancing market quality. The Exchange further believes that it is appropriate and reasonable to provide a standard rebate of $0.0032 per share for displayed orders that add liquidity in securities priced at or above $1.00 because this rebate is consistent with similar rebates provided by other exchanges.[9] The proposed increased rebate is not unfairly discriminatory because it will apply equally to all Equity Members.

Further, the Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [10]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [11] Indeed, equity trading is currently dispersed across 16 exchanges,[12] 31 alternative trading systems,[13] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 20% market share (whether including or excluding auction volume).[14] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange only recently launched trading operations on September 25, 2020, and thus has a market share of approximately less than 1% of executed volume of equities trading.

The Exchange has designed its proposed increased rebate to balance the need to attract order flow as a new

[4] *See* Exchange Rule 2614(c)(3).

[5] The term ''MIAX PEARL Equities Book'' means the electronic book of orders in equity securities maintained by the System. *See* Exchange Rule 1901.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] The term ''Equity Member'' means a Member authorized by the Exchange to transact business on MIAX PEARL Equities. *See* Exchange Rule 1901.

[9] For example, the New York Stock Exchange, Inc. (''NYSE'') fee schedule sets forth various tiers that provide the ability of their Designated Market Makers to receive a rebate as high as $0.0045 per share. *See https://www.nyse.com/markets/nyse/trading-info/fees.* Nasdaq Stock Market LLC (''Nasdaq'') fee schedule set forth various tiers that provide the ability of a firm to receive a rebate as high as $0.0033 per share. *See http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.* The Cboe BZX Exchange, Inc. (''BZX'') sets forth various tiers that provide the ability of a firm to receive a rebate as high as $0.0033 per share or higher. *See* the Tier 1 of the Total Volume Tier *and* Tier 2 of the Step Up Tier *available at https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[10] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7–10–04) (''Regulation NMS'').

[11] *See* Securities Exchange Act Release No. 82873 (March 14, 2018), 83 FR 13008 (March 26, 2018) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks).

[12] *See* Cboe Global Markets, U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share/.*

[13] *See* FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is available at *https://www.sec.gov/foia/docs/atslist.htm.*

[14] *See supra* note 12.

exchange entrant with the desire to continue to provide a simple fee structure to market participants. The Exchange believes its proposed increased rebate structure enables the Exchange to compete for order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. With respect to nonmarketable orders which provide liquidity on an exchange, Equity Members can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces reasonably constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow. Given this competitive environment, the Exchange's proposed increased rebate represents a reasonable attempt to attract order flow to a new exchange entrant.

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. Rather, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Equity Members and non-Equity Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [15]

The Exchange does not believe that the proposed increased rebate will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed increased rebate will increase competition and is intended to draw volume to the Exchange. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. As a new exchange, the Exchange faces intense competition from existing exchanges and other non-exchange venues that provide markets for equities trading. Although this increased rebate is intended to attract liquidity to the Exchange, most other exchanges in operation today already offer multiple incentives to their participants, including tiered pricing that provides higher rebates or discounted executions, and other exchanges will be able to modify such incentives in order to compete with the Exchange.

Further, while pricing incentives do cause shifts of liquidity between trading centers, market participants make determinations on where to provide liquidity or route orders to take liquidity based on factors other than pricing, including technology, functionality, and other considerations. Consequently, the Exchange believes that the degree to which its proposed increased rebate could impose any burden on competition is extremely limited, and does not believe that such increased rebate would burden competition of Equity Members or competing venues in a manner that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed increased rebate will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed increased rebate will apply equally to all Equity Members. The proposed increased rebate is intended to encourage market participants to add liquidity to the Exchange by providing a rebate that is comparable to those offered by other exchanges, which the Exchange believes will help to encourage Equity Members to send orders to the Exchange to the benefit of all Exchange participants. As the proposed rates are equally applicable to all market participants, the Exchange does not believe there is any burden on intramarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[16] and Rule 19b–4(f)(2) [17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form *(http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–PEARL–2020–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2020–24. 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

[15] *See supra* note 10.

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2020–24 and should be submitted on or before December 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25382 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90416; File No. SR–OCC–2020–806]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing of Advance Notice Related to Proposed Changes To Update the Options Clearing Corporation's Recovery and Orderly Wind-Down Plan

November 13, 2020.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) [2] under the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[3] notice is hereby given that on October 20, 2020, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') an advance notice as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is submitted in connection with a proposed change to update OCC's Recovery and Orderly Wind-Down Plan (''RWD Plan'' or ''Plan''), adopted pursuant to the requirement in Rule 17Ad–22(e)(3)(ii),[4] to reflect: (i) Changes to OCC's capital structure resulting from the disapproval of OCC's previously approved ''Capital Plan'' [5] and the subsequent approval of OCC's ''Capital Management Policy,'' [6] and (ii) changes made to each chapter of the Plan during OCC's annual internal review and update of the Plan, as required by OCC's internal governance.

The RWD Plan is included as confidential Exhibit 5 to SR–OCC–2020–806. Material proposed to be added is marked by underlining and material proposed to be deleted is marked by strikethrough text.[7] The proposed changes are described in detail in Item II below. All terms with initial capitalization not defined herein have the same meaning as set forth in OCC's By-Laws and Rules.[8]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A and B below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the advance notice and none have been received. OCC will notify the Commission of any written comments received by OCC.

(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act

Description of the Proposed Change

Background

On August 23, 2018, the Commission approved OCC's proposed rule change to formalize and update OCC's RWD Plan, consistent with the requirements of Rule 17Ad–22(e)(3)(ii).[9] As approved, the RWD Plan incorporated key pieces of OCC's previously approved Capital Plan, including but not limited to the Capital Plan's provision for ''Replenishment Capital.'' [10] In OCC's RWD Plan, Replenishment Capital was one of the tools by which OCC could have recapitalized in certain of its recovery and wind-down scenarios.

On February 13, 2019, the Commission disapproved OCC's Capital Plan.[11] The disapproval of the Capital Plan left OCC's RWD Plan with several invalid references to the Capital Plan or to certain of its component parts, including references to Replenishment Capital as one of OCC's identified tools for recovery and wind-down and references to a trigger event within the Capital Plan as one of OCC's recovery triggers. As a result of the disapproval of the Capital Plan, OCC subsequently proposed the ''Capital Management Policy,'' which among other things establishes a new mechanism for funding OCC's replenishment capital and changes OCC's ''default waterfall'' (*i.e.,* the resources available to OCC in the event of a Clearing Member's suspension).[12] These changes to OCC's replenishment capital and default waterfall necessitated changes to existing passages concerning the same in the RWD Plan.

In addition, OCC has made changes to its RWD Plan as a result of its annual review and update process. As adopted, the RWD Plan itself recognizes OCC's internal governance requirement to review and update the Plan at least every twelve months. Accordingly, during the first several months of 2019

[4] 17 CFR 240.17Ad–22(e)(3)(ii).

[5] Securities Exchange Act Release No. 85121 (Feb. 13, 2019), 84 FR 5157 (Feb. 20, 2019) (SR–OCC–2015–02).

[6] Securities Exchange Act Release No. 86725 (Aug. 21, 2019), 84 FR 44952 (Aug. 27, 2019) (SR–OCC–2019–007).

[7] OCC has also filed a proposed rule change with the Commission in connection with this proposal. *See* SR–OCC–2020–013.

[8] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

[9] Securities Exchange Act Release No. 83918 (Aug. 23, 2018), 83 FR 44091 (Aug. 29, 2018) (SR–OCC–2017–021).

[10] Securities Exchange Act Release No. 74452 (Mar. 6, 2015), 80 FR 13058 (Mar. 12, 2015) (SR–OCC–2015–02). The Capital Plan was a previously approved plan for raising additional capital under which the securities options exchanges that own equity in OCC committed to contributing additional capital to OCC under certain conditions and provided for the provision of further Replenishment Capital in certain circumstances.

[11] *See* supra note 5.

[12] *See* supra note 6.

and 2020, an internal, cross-disciplinary working group within OCC conducted a review and recommended numerous changes to the RWD Plan, which were approved by OCC's management, the Risk Committee of OCC's Board of Directors (''Board'') and OCC's Board. The changes resulting from the adoption of the Capital Management Policy and the changes from OCC's annual review process are discussed in greater detail below.

Proposed Changes

The proposed rule change would update each of the eight chapters of the RWD Plan.[13] A summary description of the types of changes proposed to each of the eight chapters of the RWD Plan is provided below:

Chapter 1: Executive Summary

Chapter 1 of the RWD Plan provides an executive summary and overview of OCC's proposed Plan. The proposed changes to Chapter 1 of the Plan would simply align the executive summary and overview to the changes made throughout subsequent chapters of the Plan.

Chapter 2: OCC Overview

Chapter 2 of the RWD Plan provides information that OCC believes would be essential to relevant authorities for purposes of recovery and orderly wind-down planning, as well as to provide readers of the Plan with necessary context for the subsequent discussion and analysis of OCC's ''Critical Services'' and ''Critical Support Functions'' in Chapter 4 (discussed below) and of OCC's wind-down process in Chapter 6 (discussed below). The proposed rule change would update several figures and factual discussions to reflect changes since the Plan's initial approval by the Commission. The types of changes being made to Chapter 2 would include: (i) Updated figures and numbers about market share and contract volume; (ii) updated lists of securities options exchanges and futures exchanges cleared by OCC; (iii) updated organizational charts, headcount numbers, discussions of OCC's management structure and descriptions of management roles and responsibilities; (iv) updated descriptions of OCC's Board's responsibilities and procedures, lists of Board members, and descriptions of OCC's Board committees' roles and responsibilities;[14] (v) revised descriptions that would acknowledge certain program changes that have occurred since the initial 2018 approval of the RWD Plan (*e.g.,* changes to OCC's cross-margining arrangements, changes in credit facilities and changes concerning investment counterparties, exchanges and vendors); (vi) updated graphs of OCC's Clearing Fund total monthly deposits; and (vii) updated discussions of OCC's retirement plan obligations. In addition to these updated figures and factual discussions, the proposed rule change would (i) revise Chapter 2 to remove excerpts from OCC's most recent annual report (which would be relocated to one of the appendices); (ii) replace a lengthy overview of OCC's risk management program with a more concise summary; (iii) update a summary description of OCC's interconnections with external vendors and a list of vendors that provide OCC critical technology and information reporting services; and (iv) revise a fee management discussion to align with changes resulting from the implementation of the Capital Management Policy.[15]

Chapter 3: Support Functions

Chapter 3 of the RWD Plan identifies each of OCC's different internal support functions and provides a brief description of the activities performed by each such support function. For purposes of the RWD Plan, ''internal support functions'' are the various departments within OCC that are necessary for OCC to provide its services to Clearing Members and other participants. Since the initial 2018 approval of the RWD Plan, OCC has added two additional internal support functions and expanded its Office of the Chief Executive Officer, renamed the ''Corporate'' support function, to include OCC's executive officers and administrative support staff. Accordingly, the proposed rule change would add two new internal support functions (and descriptions thereof) and replace the Office of the Chief Executive Officer with the Corporate support function, bringing the total number of internal support functions from 14 to 16. Since the initial 2018 approval of the RWD Plan, OCC also has modified and updated its administrative descriptions of the roles and responsibilities of the 14 internal support functions that were discussed in the initial 2018 approval of the RWD Plan. Accordingly, the proposed rule change would update the descriptions of all OCC's internal support functions so they align with the modified and updated internal administrative descriptions of such functions.

Chapter 4: Critical Services and Critical Support Functions

Chapter 4 of the RWD Plan identifies OCC's ''Critical Services''[16] and ''Critical Support Functions.''[17] The proposed rule change would group two previously identified Critical Services into a single Critical Service (*i.e.,* the changes would simply use a single term to refer to two services that were previously listed separately). The proposed rule change also would update dated factual references and make other minor changes to OCC's description of its evaluations of Critical Services and Critical Support Functions, notably to recognize the consolidation of the two previously identified Critical Services into a single Critical Service and recalibrate the evaluation of an OCC service in considering whether it is a Critical Service. The proposed rule change also would change the mapping of Critical Services to Support Functions to recognize the ''primary,'' ''secondary,'' or ''non-critical'' nature of each Support Function, which better aligns with OCC's internal taxonomy.

Chapter 5: Recovery Plan

Chapter 5 of OCC's proposed Plan constitutes OCC's recovery plan. The proposed rule change would make conforming edits to references to certain former provisions within OCC's By-Laws that have since been relocated to OCC's Rules.[18] The proposed rule change also would revise the inventory and description of OCC's available ''Enhanced Risk Management Tools'' and ''Recovery Tools'' to (i) replace references to and discussions of Replenishment Capital with references to and descriptions of the replenishment

[13] In addition to the changes summarized below, OCC would also make administrative changes throughout the Plan to update various OCC internal policy and procedure names.

[14] Securities Exchange Act Release No. 84473 (Oct. 23, 2018), 83 FR 54385 (Oct. 29, 2018) (SR–OCC–2018–012).

[15] The changes to the fee management discussion concern the potential for OCC's Board to lower the direct costs of participation if OCC's shareholder equity exceeds 110% of a predetermined ''Target Capital Requirement.'' *See* Securities Exchange Act Release No. 86725 (Aug. 21, 2019), 84 FR 44944 (Aug. 27, 2019) (SR–OCC–2019–007).

[16] A ''Critical Service,'' as defined in the proposed Plan, would be a service provided by OCC that, if interrupted, would likely have a material negative impact on participants or significant third parties, give rise to contagion, or undermine the general confidence of markets the FMU serves.

[17] A ''Critical Support Function,'' as defined in the proposed Plan, would be a function within OCC that must continue in some capacity in order for OCC to be able to continue providing its Critical Services.

[18] *See* Securities Exchange Act Release No. 83735 (Jul. 27, 2018), 83 FR 37855 (Aug. 2, 2018) (SR–OCC–2010–008).

structure under the adopted Capital Management Policy; (ii) replace references to and discussions of the discretionary use of OCC's current and/or retained earnings with references to and discussions of the mandatory contribution—immediately following the use of margin, deposits in lieu of margin and the Clearing Fund deposits of the suspended Clearing Member—of OCC's current and retained earnings greater than 110% of OCC's annually-established ''Target Capital Requirement,'' as implemented by the Capital Management Policy; (iii) update the description of how OCC could increase the minimum required cash contribution to the Clearing Fund to reflect enhancements to OCC's liquidity risk management framework that the Commission approved in 2020; [19] (iv) include a discussion of the mandatory contribution of any unvested portions of OCC's Executive Deferred Compensation Plan (''EDCP''), in proportion to any charges against the mutualized portion of OCC's Clearing Fund, as implemented by the Capital Management Policy; and (v) update the governance of the Recovery Tools to include OCC's Chief Executive Officer and Chief Operating Officer in various communications to OCC's Executive Chairman. The proposed rule change also would revise the list of ''Recovery Trigger Events'' in the recovery plan to (i) delete one of the Recovery Trigger Events that was derived from a defined term in the Capital Plan, (ii) consolidate two other Recovery Trigger Events into a single, operational loss-related recovery trigger, and (iii) add a qualification onto an existing liquidity loss-related recovery trigger. The proposed rule change would also delete unnecessary historical data on business volumes from the hypothetical stress scenarios in Chapter 5 that illustrate how OCC could use its recovery tools.

Chapter 6: Wind-Down Plan

Chapter 6 of OCC's RWD Plan constitutes OCC's orderly wind-down plan. The proposed rule change would revise the list of Wind-Down Plan Trigger Events (''WDP Triggers'') to consolidate two current WDP Triggers into a single WDP Trigger related to OCC's financial resource requirements, and consolidate two other current WDP Triggers into a single WDP Trigger related to operational disruption. The proposed rule change would also update discussions of the tools by which OCC could have recapitalized in certain of its recovery and wind-down scenarios. As revised, these discussions would describe replenishment capital available under the adopted Capital Management Policy, deleting descriptions of Replenishment Capital available under the former Capital Plan. The proposed rule change also would update certain of the references to OCC's internal support functions and certain references to headcount in Chapter 6.

Chapter 7: RWD Plan Governance

Chapter 7 of OCC's RWD Plan section details the governance of OCC's RWD Plan. The proposed rule change would revise the lists of OCC staff involved in the completion of the plan (largely to give effect to the fact that the titles of certain offices changed since the RWD Plan's proposal in 2017).

Chapter 8: Appendices

Chapter 8 of OCC's RWD Plan is comprised of several appendices. The proposed rule change would update several lists within the appendices to reflect changes that have occurred since the Plan's initial approval by the Commission. The types of changes being made to Chapter 8 would include: (i) Updated lists of OCC's clearing membership; (ii) updated lists of participation on OCC's Board; (iii) updated lists of settlement banks and letter of credit banks; (iv) updated lists of vendors and service providers that would be necessary to support a recovery or wind-down of OCC; (v) updates to the extreme hypothetical scenarios designed by OCC that, if such scenarios occurred, could cause OCC to activate the RWD Plan; and (vi) updated lists of the key agreements to be maintained during recovery and wind-down efforts.

Expected Effect on and Management of Risk

OCC believes that the proposed change would reduce the nature and level of risk presented to OCC by maintaining and updating plans designed to enhance OCC's ability to address extreme stress events and minimize the risks of contagion to OCC's Clearing Members, market participants or to the wider financial system, including other FMIs. More specifically, the RWD Plan is designed to enhance OCC's ability to address extreme stresses or crises by establishing a framework that OCC could use to navigate the use its Enhanced Risk Management Tools and Recovery Tools, with the aim of maintaining OCC's viability as a going concern. In the event that OCC's recovery efforts are not successful, the wind-down plan would seek to improve the possibility that a resolution of OCC's operations can be conducted in an orderly manner, thereby minimizing the disruption to Clearing Members and market participants and improving the likelihood of minimizing the risk of contagion to the broader financial system. In this regard, OCC believes its maintenance and updating of the RWD Plan improves the possibility of maintaining market and public confidence during a time of unprecedented stress.

Consistency With the Payment, Clearing, and Settlement Supervision Act

The stated purpose of the Clearing Supervision Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[20] Section 805(a)(2) of the Clearing Supervision Act [21] also authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like OCC, for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act [22] states that the objectives and principles for risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and the Act in furtherance of these objectives and principles, including those standards adopted pursuant to the Commission rules cited below.[23] For the reasons set forth below, OCC believes that the proposed change is consistent with the risk management standards promulgated under Section 805(a) of the Clearing Supervision Act.[24]

[19] *See* Securities Exchange Act Release No. 89014 (Jun. 4, 2020), 85 FR 35446 (Jun. 10, 2020) (SR–OCC–2020–003).

[20] 12 U.S.C. 5461(b).

[21] 12 U.S.C. 5464(a)(2).

[22] 12 U.S.C. 5464(b).

[23] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release Nos. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11) (''Clearing Agency Standards''); 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Standards for Covered Clearing Agencies''). OCC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5) and therefore is subject to section (e) of Rule 17Ad–22.

[24] 12 U.S.C. 5464(b)(1) and (4).

As stated above, the RWD Plan is designed to enhance OCC's ability to address extreme stresses or crises by establishing a framework that OCC could use to navigate the use of its Enhanced Risk Management Tools and Recovery Tools, with the aim of maintaining OCC's viability as a going concern. In the event that OCC's recovery efforts are not successful, the RWD Plan would seek to improve the possibility that a resolution of OCC's operations can be conducted in an orderly manner, thereby minimizing the disruption to Clearing Members and market participants and improving the likelihood of minimizing the risk of contagion to the broader financial system. Accordingly, OCC believes the updates to the RWD Plan would improve the possibility of OCC's effectively addressing a variety of potential risks, thereby improving OCC's ability to ultimately maintain market and public confidence during a time of unprecedented stress. In this regard, OCC believes the proposed change would promote robust risk management and safety and soundness and thereby reduce systemic risks and support the stability of the broader financial system.

OCC also believes that the proposed change is consistent with Exchange Act Rule 17Ad–22(e)(3)(ii), which requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to include plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[25] As stated above, the RWD Plan would describe OCC's plans to recover from, or orderly resolve its operations as a result of, severe stress brought about by credit losses, liquidity shortfalls, losses from general business risk or other losses.[26] The proposed updates to the RWD Plan would improve the accuracy of the inventory of OCC's Recovery Tools and improve OCC's evaluation of scenarios which may potentially prevent OCC from providing its Critical Services as a going-concern, as well as OCC's plans for recovery or orderly wind-down. Further, the proposed changes to the Plan would update and improve the information that a resolution authority may reasonably anticipate as necessary for purposes of recovery and orderly wind-down planning.[27] In this regard, OCC believes the proposed change is consistent with Rule 17Ad–22(e)(3)(ii).[28]

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date the proposed change was filed with the Commission or (ii) the date any additional information requested by the Commission is received. OCC shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

OCC shall post notice on its website of proposed changes that are implemented. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision 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–OCC–2020–806 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–OCC–2020–806. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 self-regulatory organization.

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–OCC–2020–806 and should be submitted on or before December 3, 2020.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

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[25] 17 CFR 240.17Ad–22(e)(3)(ii).

[26] 17 CFR 240.17Ad–22(e)(3)(ii).

[27] *See* 81 FR at 70810.

[28] 17 CFR 240.17Ad–22(e)(3)(ii).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90408; File No. SR–NYSEAMER–2020–79]

Self-Regulatory Organizations; NYSE American, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE American BBO and NYSE American Trades by Modifying the Application of the Access Fee and Amending the Fees for NYSE American Trades by Adopting a Waiver Applicable to the Redistribution Fee

November 12, 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 November 2, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend the fees for NYSE American BBO and NYSE American Trades by modifying the application of the Access Fee; and (2) amend the fees for NYSE American Trades by adopting a waiver applicable to the Redistribution Fee. The Exchange proposes to implement the proposed fee changes on January 1, 2021. 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 decrease the fees for certain NYSE American market data products, as set forth on the NYSE American Proprietary Market Data Fee Schedule (''Fee Schedule''). These fee decreases, taken together with similar fee decreases filed by the Exchange's affiliated exchanges, New York Stock Exchange LLC (''NYSE'') and NYSE Arca, Inc. (''NYSE Arca''),[3] will reduce the fees associated with the NYSE BQT proprietary data product, which competes directly with similar products offered by both the Nasdaq and Cboe families of U.S. equity exchanges. Collectively, the proposed fee decreases are intended to respond to the competition posed by similar products offered by the other exchange groups.

Specifically, the Exchange proposes to (1) reduce the Access Fees by more than 93% for Redistributors[4] of NYSE American BBO and NYSE American Trades that subscribe to only such data feeds and do not subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only; and (2) waive the Redistribution Fee for Redistributors that are eligible for the Per User Access Fee if the Redistributor provides NYSE American Trades externally to at least one data feed recipient and reports such recipient to the Exchange. All of the proposed changes would decrease fees for market data on the Exchange.

The Exchange proposes to implement these proposed fee changes on January 1, 2021.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[5]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.''[6] Indeed, equity trading is currently dispersed across 16 exchanges,[7] numerous alternative trading systems,[8] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share (whether including or excluding auction volume).[9]

With the NYSE BQT market data product, NYSE American and its affiliates compete head to head with the Nasdaq Basic[10] and Cboe One Feed[11] market data products. Similar to those market data products, NYSE BQT, which was established in 2014,[12] consists of certain elements from the NYSE American BBO and NYSE American Trades market data products as well as from market data products from the Exchange's affiliates, NYSE, NYSE Arca, NYSE Chicago, Inc. (''NYSE Chicago''),[13] and NYSE National, Inc. (''NYSE National'').[14] Similar to both Nasdaq Basic and the Cboe One Feed, NYSE BQT provides investors with a unified view of comprehensive last sale and BBO data in all Tape A, B, and C securities that trade on the Exchange, NYSE, NYSE Arca, NYSE Chicago, and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* SR–NYSE–2020–91 and SR–NYSEArca–2020–95.

[4] A Redistributor is a vendor or any other person that provides a NYSE data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS Adopting Release'').

[6] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[7] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[8] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[9] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[10] As described on the Nasdaq website, available here: *http://www.nasdaqtrader.com/Trader.aspx?id=nasdaqbasic,* Nasdaq Basic is a ''low cost alternative'' that provides ''Best Bid and Offer and Last Sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center, as well as trades reported to the FINRA Trade Reporting Facility (''TRF'').''

[11] As described on the Cboe website, available here: *https://markets.cboe.com/us/equities/market_data_services/cboe_one/,* the Cboe One Feed is a ''market data product that provides cost-effective, high-quality reference quotes and trade data for market participants looking for comprehensive, real-time market data'' and provides a ''unified view of the market from all four Cboe equity exchanges: BZX Exchange, BYX Exchange, EDGX Exchange, and EDGA Exchange.''

[12] *See* Securities Exchange Act Release Nos. 72750 (August 4, 2014), 79 FR 46494 (August 8, 2014) (notice—NYSE BQT); and 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (approval order—NYSE BQT) (SR–NYSE–2014–40) (''NYSE BQT Filing'').

[13] In 2019, NYSE BQT was amended to include NYSE Chicago BBO and NYSE Chicago Trades. *See* Securities Exchange Act Release No. 87511 (November 12, 2019), 84 FR 63689 (November 18, 2019) (SR–NYSE–2019–60).

[14] In 2018, NYSE BQT was amended to include NYSE National BBO and NYSE National Trades. *See* Securities Exchange Act Release No. 83359 (June 1, 2018), 83 FR 26507 (June 7, 2018) (SR–NYSE–2018–22).

NYSE National. Also similar to Nasdaq Basic and the Cboe One Feed, NYSE BQT is not intended to be used for purposes of making order-routing or trading decisions, but rather provides indicative prices for Tape A, B, and C securities.[15]

Currently, to subscribe to NYSE BQT, subscribers are charged an access fee of $250 per month.[16] Additionally, subscribers must also subscribe to, and pay applicable fees for NYSE American BBO, NYSE American Trades, NYSE BBO, NYSE Trades, NYSE Arca BBO, NYSE Arca Trades, NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, and NYSE National Trades. Thus, an NYSE BQT subscriber currently pays the $250 access fee for NYSE BQT, plus a $1,500 access fee for each of NYSE BBO and NYSE Trades,[17] plus a $750 access fee for each of NYSE American BBO and NYSE American Trades,[18] plus a $750 access fee for each of NYSE Arca BBO and NYSE Arca trades,[19] for a total of $6,250 ($250 + $3,000 + $1,500 + $1,500).[20] In addition, an NYSE BQT subscriber would need to pay for the applicable Professional or Non-Professional User Fees for the underlying market data products, as applicable.[21]

Because NYSE BQT is priced based on the fees associated with the underlying ten market data feeds, the Exchange and its affiliates propose to compete with the Nasdaq Basic and Cboe One Feed by reducing fees for the underlying market data products that comprise NYSE BQT. Together with NYSE and NYSE Arca, the Exchange similarly proposes to compete for subscribers to NYSE BQT by designing its fee decreases to be attractive to Redistributors that intend to subscribe to and externally redistribute only NYSE BQT. The Exchange understands that data recipients that are interested in subscribing to NYSE BQT obtain their data from Redistributors that do not currently subscribe to either the NYSE BQT data feed or any other market data product listed on the Fee Schedule. Because such Redistributors do not subscribe to NYSE BQT, the prospective data recipients that are the customers of such Redistributors are unable to subscribe to NYSE BQT. The proposed fee changes are designed to provide a financial incentive for such Redistributors to subscribe to NYSE BQT so that their customers, which have expressed an interest in subscribing to NYSE BQT, would be able to access the product via such Redistributors.

Access Fee—NYSE American BBO and NYSE American Trades

NYSE American BBO is a NYSE American-only market data product that allows a vendor to redistribute on a real-time basis the same best-bid-and-offer information that NYSE American reports under the Consolidated Quotation Plan (''CQ Plan'') for inclusion in the CQ Plan's consolidated quotation information data stream (''NYSE American BBO Information'').[22] NYSE American BBO Information includes the best bids and offers for all securities that are traded on the Exchange and for which NYSE American reports quotes under the CQ Plan. NYSE American BBO is available over a single data feed, regardless of the markets on which the securities are listed. NYSE American BBO is made available to its subscribers no earlier than the information it contains is made available to the processor under the CQ Plan.

NYSE American Trades is a NYSE American-only market data product that allows a vendor to redistribute on a real-time basis the same last sale information that NYSE American reports to the Consolidated Tape Association (''CTA'') for inclusion in the CTA's consolidated data stream and certain other related data elements (''NYSE American Last Sale Information'').[23] NYSE American Last Sale Information includes last sale information for all securities that are traded on the Exchange. NYSE American Trades is made available to its subscribers at the same time as the information it contains is made available to the processor under the CTA Plan.

Currently, subscribers of each of the NYSE American BBO and NYSE American Trades products that receive a data feed pay an Access Fee of $750 per month. In February 2020, the Exchange added the Per User Access Fee, which is a reduced Access Fee of $100 per month currently available only for subscribers of NYSE American BBO and NYSE American Trades that receive those products in a display-only format, including for internal use for Professional Users and external distribution to both Professional and Non-Professional Users.[24]

The Exchange now proposes that Redistributors of NYSE American BBO and NYSE American Trades data feeds that do not subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only, would also be eligible for the reduced Per User Access Fee. A Redistributor that receives a data feed of NYSE American BBO and NYSE American Trades and uses the market data products for any other purpose (such as internal use) or that subscribes to any other products listed on the Fee Schedule would continue to pay the $1,500 per month General Access Fee. As currently set forth in footnote 3 to the Fee Schedule, a subscriber would be charged only one access fee for each of the NYSE American BBO and NYSE American Trades products, depending on the use of that product.

To effect this change, the Exchange proposes to modify footnote 3 to the Fee

[15] *See* NYSE BQT Filing, *supra* note 13.

[16] *See* NYSE Proprietary Market Data Fees, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.*

[17] *See id.*

[18] *See* Fee Schedule, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf.*

[19] *See* NYSE Arca Equities Proprietary Market Data Fees, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Fee_Schedule.pdf.*

[20] There are currently no fees charged for the NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, or NYSE National Trades market data products.

[21] The Exchange is not proposing any changes to the User Fees. Currently, the Professional User Fees for each of NYSE BBO and NYSE Trades is $4 per month, and the Non-Professional User Fees for each of NYSE BBO and NYSE Trades is $0.20 per month. *See* NYSE Proprietary Market Data Fees, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.* The Professional User Fees for each of NYSE American BBO and NYSE American Trades is $4 per month, and the Non-Professional User Fees for each of NYSE American BBO and NYSE American Trades is $0.25 per month. *See* NYSE American Price List, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf.* The Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is $4 per month, and the Non-Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is $0.25 per month. *See* NYSE Arca Price List, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Proprietary_Data_Fee_Schedule.pdf.*

[22] *See* Securities Exchange Act Release Nos. 61936 (April 16, 2010), 75 FR 21088 (April 22, 2010) (SR–NYSEAmex–2010–35) (notice—NYSE American BBO); and 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR–NYSEAmex–2010–35) (approval order—NYSE American BBO).

[23] *See* Securities Exchange Act Release Nos. 61936 (April 16, 2010), 75 FR 21088 (April 22, 2010) (SR–NYSEAmex–2010–35) (notice—NYSE American Trades); and 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR–NYSEAmex–2010–35) (approval order—NYSE American Trades).

[24] A Per User Access Fee currently applies for subscribers of NYSE American BBO and NYSE American Trades that receive a data feed and use those market data products in a display-only format. *See* Fee Schedule. *See also* Securities Exchange Act Release No. 87801 (December 19, 2019), 84 FR 71491 (December 27, 2019) (SR–NYSEAMER–2019–55) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Partial Amendment No. 1, To Amend the Fees for NYSE American BBO and NYSE American Trades) (''BQT Fee Reduction Filing'').

Schedule as follows (proposed text is *italicized,* proposed deletions bracketed):

The Per User Access Fee is charged to: (i) [A] *a* subscriber that receives a data feed and uses the market data product only for Professional Users and Non-Professional Users in a display-only format, including for internal use and external redistribution in a display-only format, [will be charged the Per User Access Fee] *and (ii) a Redistributor that subscribes only to the NYSE American BBO and NYSE American Trades data feeds, and does not subscribe to any other Products listed on this Fee Schedule, and uses these market data products for external distribution only.* A subscriber that receives a data feed and uses the market data product for any other purpose, including if combined with Per User use, will be charged the General Access Fee. A subscriber will be charged only one access fee for each of the NYSE American BBO and NYSE American Trades products, depending on the use of that product.

The proposed rule change would result in lower fees for Redistributors of each of the NYSE American BBO and NYSE American Trades products that receive NYSE American BBO and NYSE American Trades data feeds and do not subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only.[25] The Exchange believes that the proposed fee reduction in NYSE American BBO and NYSE American Trades would provide an incentive for such Redistributors to subscribe to the NYSE BQT data feeds so that such product would be available to their customers, which have expressed an interest in subscribing to NYSE BQT.

The proposed rule change is intended to encourage greater use of NYSE BQT by making it more affordable for Redistributors that have customers interested in subscribing to NYSE BQT but that do not currently subscribe to NYSE American BBO or NYSE American Trades or any other products listed on the Fee Schedule. The proposed fee reduction would allow the Exchange to compete more effectively with Nasdaq Basic and Cboe One Feed by expanding the number of Redistributors that would subscribe to NYSE BQT, and therefore make the product available to data subscribers interested in NYSE BQT.

Redistribution Fee—NYSE American Trades

The Exchange currently charges a Redistribution Fee of $750 per month for NYSE American Trades. A Redistributor is required to report to the Exchange each month the number of Professional and Non-Professional Users and data feed recipients that receive NYSE American Trades.

The Exchange proposes to waive the Redistribution Fee for a Redistributor that is eligible for the Per User Access Fee if the Redistributor provides NYSE American Trades externally to at least one data feed recipient and reports such data feed recipient or recipients to the Exchange. For example, a Redistributor that subscribes to the NYSE American BBO and NYSE American Trades data feeds and does not subscribe to any other product listed on the Fee Schedule would have the Redistribution Fee waived for the month if such Redistributor provides NYSE American BBO and NYSE American Trades externally to at least one data feed recipient and reports such data feed recipient to the Exchange.

By targeting this proposed fee waiver to Redistributors that provide external distribution of NYSE American Trades, the Exchange believes that this would provide an incentive for Redistributors to make the NYSE BQT market data product available to its customers. Specifically, if a data recipient is interested in subscribing to NYSE BQT and relies on a Redistributor to obtain market data products from the Exchange, that data recipient would need its Redistributor to redistribute NYSE BQT. Currently, Redistributors that redistribute some NYSE American market data products do not necessarily also make NYSE BQT available. The Exchange believes that this proposed fee waiver for Redistributors of NYSE American Trades would provide an incentive for Redistributors to make NYSE BQT available to their customers, which will increase the availability of NYSE BQT to a larger potential population of data recipients.[26]

Applicability of Proposed Rule Change

As noted above, the proposed rule change is designed to further reduce the overall cost of NYSE BQT by reducing specified fees applicable to the underlying market data products that comprise NYSE BQT. Prior to the BQT Fee Reduction Filing, the Exchange had only one subscriber to NYSE BQT. Today, the Exchange has seven subscribers, three of whom became customers as a direct result of the BQT Fee Reduction Filing and currently pay the reduced Per User Access Fee. The Exchange believes that the proposed rule changes would provide a further incentive for Redistributors to subscribe to NYSE BQT for purposes of providing external distribution of NYSE BQT to potential data recipients interested in the product.

Because the proposed rule change is targeted to potential Redistributors of NYSE BQT that do not currently subscribe to any NYSE market data products, the proposed changes to the availability of the NYSE American BBO and NYSE American Trades Per User Access Fees, together with the proposed changes on NYSE and NYSE Arca, are narrowly tailored with that purpose in mind. Accordingly, these proposed fee changes are not designed for Redistributors that are existing customers of NYSE American market data products or that engage in internal use of NYSE BQT. This proposed rule change would not result in any changes to the market data fees for NYSE American BBO and NYSE American Trades for such data subscribers.

The Exchange believes that there are at least three potential Redistributors that would meet the qualifications to be eligible for these proposed fee changes. The Exchange further believes that this proposed rule change has the potential to attract these three Redistributors as new Redistributors for NYSE BQT, as well as new NYSE BQT subscribers that would be subscribing to NYSE American BBO and NYSE American Trades for the first time.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[27] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[28] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Proposed Rule Change Is Reasonable

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining

[25] The Per User Access Fee is 93% lower than the General Access Fee. Together with the corresponding proposed rule changes by NYSE and NYSE Arca to similarly reduce the access fees to their BBO and Trades products for Redistributors, such Redistributors would be eligible for significantly lower access fees for NYSE BQT, from $6,250 per month to $850 per month ($250 + $200 + $200 +$200), a reduction of more than 86%.

[26] NYSE American does not charge a Redistribution Fee for NYSE American BBO.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(4), (5).

prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [29]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system ''evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed'' and that the SEC wield its regulatory power ''in those situations where competition may not be sufficient,'' such as in the creation of a ''consolidated transactional reporting system.'' [30]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [31]

More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[32]

1. The Proposed Fees Are Constrained by Significant Competitive Forces

a. Exchange Market Data Is Sold in a Competitive Market

In 2018, Charles M. Jones, the Robert W. Lear of Professor of Finance and Economics of the Columbia University School of Business, conducted an analysis of the market for equity market data in the United States. He canvassed the demand for both consolidated and exchange proprietary market data products and the uses to which those products were put by market participants, and reported his conclusions in a paper annexed hereto.[33] Among other things, Professor Jones concluded that:

- ''The market [for exchange market data] is characterized by robust competition: Exchanges compete with each other in selling proprietary market data products. They also compete with consolidated data feeds and with data provided by alternative trading systems ('ATSs'). Barriers to entry are very low, so existing exchanges must also take into account competition from new entrants, who generally try to build market share by offering their proprietary market data products for free for some period of time.'' [34]
- ''Although there are regulatory requirements for some market participants to use consolidated data products, there is no requirement for market participants to purchase any proprietary market data product for regulatory purposes.'' [35]
- ''There are a variety of data products, and consumers of equity market data choose among them based on their needs. Like most producers, exchanges offer a variety of market data products at different price levels. Advanced proprietary market data products provide greater value to those who subscribe. As in any other market, each potential subscriber takes the features and prices of available products into account in choosing what market data products to buy based on its business model.'' [36]
- ''Exchange equity market data fees are a small cost for the industry overall: the data demonstrates that total exchange market data revenues are orders of magnitude smaller than (i) broker-dealer commissions, (ii) investment bank earnings from equity trading, and (iii) revenues earned by third-party vendors.'' [37]
- ''For proprietary exchange data feeds, the main question is whether there is a competitive market for proprietary market data. More than 40 active exchanges and alternative trading systems compete vigorously in both the market for order flow and in the market for market data. The two are closely linked: an exchange needs to consider the negative impact on its order flow if it raises the price of its market data. Furthermore, new entrants have been frequent over the past 10 years or so, and these venues often give market data away for free, serving as a check on pricing by more established exchanges. These are all the standard hallmarks of a competitive market.'' [38]

Professor Jones' conclusions are consistent with the demonstration of the competitive constraints on the pricing of market data demonstrated by analysis of exchanges as platforms for market data and trading services, as shown below.[39]

b. Exchanges That Offer Market Data and Trading Services Function as Two-Sided Platforms

An exchange may demonstrate that its fees are constrained by competitive forces by showing that platform competition applies.

As the United States Supreme Court recognized in *Ohio* v. *American Express,* platforms are firms that act as intermediaries between two or more sets of agents, and typically the choices made on one side of the platform affect the results on the other side of the platform via externalities, or ''indirect network effects.'' [40] Externalities are linkages between the different ''sides'' of a platform such that one cannot understand pricing and competition for goods or services on one side of the platform in isolation; one must also account for the influence of the other side. As the Supreme Court explained:

> To ensure sufficient participation, two-sided platforms must be sensitive to the prices that they charge each side. . . . Raising the price on side A risks losing participation on that side, which decreases the value of the platform to side B. If the

[29] *See* Regulation NMS Adopting Release, 70 FR 37495, at 37499.

[30] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[31] *Id.* at 535.

[32] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (''National IF Approval Order'') (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (''2008 ArcaBook Approval Order'').

[33] *See* Exhibit 3A, Charles M. Jones, *Understanding the Market for U.S. Equity Market Data,* August 31, 2018 (hereinafter ''Jones Paper'').

[34] Jones Paper at 2.

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] *Id.* at 39–40.

[39] More recently, Professors Jonathan Brogaard and James Brugler also looked at the market for proprietary market data products and confirmed that it is competitive. The authors document that introducing fees for market data leads to lower market share, and identify informed traders as the most affected trader categories after fees are introduced. *See* Jonathan Brogaard and James Brugler, *Competition and Exchange Data Fees,* October 2, 2020 (Exhibit 3B).

[40] *Ohio* v. *American Express,* 138 S. Ct. 2274, 2280–81 (2018).

participants on side B leave due to this loss in value, then the platform has even less value to side A—risking a feedback loop of declining demand. . . . Two-sided platforms therefore must take these indirect network effects into account before making a change in price on either side.[41]

The Exchange and its affiliated exchanges have long maintained that they function as platforms between consumers of market data and consumers of trading services. Proving the existence of linkages between the two sides of this platform requires an in-depth economic analysis of both public data and confidential Exchange data about particular customers' trading activities and market data purchases. Exchanges, however, are prohibited from sharing details about these specific customer activities and purchases. For example, pursuant to Exchange Rule 7.41E, transactions executed on the Exchange are processed anonymously.

The Exchange and its affiliated exchanges retained a third party expert, Marc Rysman, Professor of Economics Boston University, to analyze how platform economics applies to stock exchanges' sale of market data products and trading services, and to explain how this affects the assessment of competitive forces affecting the exchanges' data fees.[42] Professor Rysman was able to analyze exchange data that is not otherwise publicly available in a manner that is consistent with the exchanges' confidentiality obligations to customers. As shown in his paper, Professor Rysman surveyed the existing economic literature analyzing stock exchanges as platforms between market data and trading activities, and explained the types of linkages between market data access and trading activities that must be present for an exchange to function as a platform. In addition, Professor Rysman undertook an empirical analysis of customers' trading activities within the NYSE group of exchanges in reaction to NYSE's introduction in 2015 of the NYSE Integrated Feed, a full order-by-order depth of book data product.[43]

Professor Rysman's analysis of this confidential firm-level data shows that firms that purchased the NYSE Integrated Feed market data product after its introduction were more likely to route orders to NYSE as opposed to one of the other NYSE-affiliated exchanges, such as NYSE Arca or NYSE American.[44] Moreover, Professor Rysman shows that the same is true for firms that did *not* subscribe to the NYSE Integrated Feed: The introduction of the NYSE Integrated Feed led to more trading on NYSE (as opposed to other NYSE-affiliated exchanges) by firms that did *not* subscribe to the NYSE Integrated Feed.[45] This is the sort of externality that is a key characteristic of a platform market.[46]

From this empirical evidence, Professor Rysman concludes:

- ''[D]ata is more valuable when it reflects more trading activity and more liquidity-providing orders. These linkages alone are enough to make platform economics necessary for understanding the pricing of market data.'' [47]
- ''[L]inkages running in the opposite direction, from data to trading, are also very likely to exist. This is because market data from an exchange reduces uncertainty about the likelihood, price, or timing of execution for an order on that exchange. This reduction in uncertainty makes trading on that exchange more attractive for traders that subscribe to that exchange's market data. Increased trading by data subscribers, in turn, makes trading on the exchange in question more attractive for traders that do not subscribe to the exchange's market data.'' [48]
- The ''mechanisms by which market data makes trading on an exchange more attractive for subscribers to market data . . . apply to a wide assortment of market data products, including BBO, order book, and full order-by-order depth of book data products at all exchanges.'' [49]
- ''[E]mpirical evidence confirms that stock exchanges are platforms for data and trading.'' [50]
- ''The platform nature of stock exchanges means that data fees cannot be analyzed in isolation, without accounting for the competitive dynamics in trading services.'' [51]
- ''Competition is properly understood as being between platforms (*i.e.,* stock exchanges) that balance the needs of consumers of data and traders.'' [52]
- ''Data fees, data use, trading fees, and order flow are all interrelated.'' [53]
- ''Competition for order flow can discipline the pricing of market data, and vice-versa.'' [54]
- ''As with platforms generally, overall competition between exchanges will limit their overall profitability, not margins on any particular side of the platform.'' [55]

c. Exchange Market Data Fees Are Constrained by the Availability of Substitute Platforms

Professor Rysman's conclusions that exchanges function as platforms for market data and transaction services mean that exchanges do not set fees for market data products without considering, and being constrained by, the effect the fees will have on the order-flow side of the platform. And as the D.C. Circuit recognized in *NetCoalition I,* ''[n]o one disputes that competition for order flow is fierce.'' [56] The court further noted that ''no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers,'' and that an exchange ''must compete vigorously for order flow to maintain its share of trading volume.'' [57]

As noted above, while Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [58] The Commission's Division of Trading and Markets has also recognized that with so many ''operating equities exchanges and dozens of ATSs, there is vigorous price competition among the U.S. equity markets and, as a result, [transaction] fees are tailored and frequently modified to attract particular types of order flow, some of which is highly fluid and price sensitive.'' [59] Indeed,

[41] *Id.* at 2281.

[42] *See* Exhibit 3C, Marc Rysman, *Stock Exchanges as Platforms for Data and Trading,* December 2, 2019 (hereinafter ''Rysman Paper''), ¶ 7.

[43] *See* Securities Exchange Act Release Nos. 74128 (January 23, 2015), 80 FR 4951 (January 29, 2015) (SR–NYSE–2015–03) (Notice of filing and immediate effectiveness of proposed rule change to establish NYSE Integrated Feed) and 76485 (November 20, 2015), 80 FR 74158 (November 27, 2015) (SR–NYSE–2015–57) (Notice of filing and immediate effectiveness of proposed rule change to establish fees for the NYSE Integrated Feed).

[44] Rysman Paper ¶¶ 79–89.

[45] *Id.* ¶¶ 90–91.

[46] *Id.* ¶ 90.

[47] *Id.* ¶ 95.

[48] *Id.* ¶ 96.

[49] *Id.*

[50] *Id.* ¶ 97.

[51] *Id.* ¶ 98.

[52] *Id.*

[53] *Id.*

[54] *Id.*

[55] *Id.* ¶ 100.

[56] *NetCoalition I,* 615 F.3d at 544 (internal quotation omitted).

[57] *Id.*

[58] *See* Securities Exchange Act Release No. 61358, 75 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[59] Commission Division of Trading and Markets, Memorandum to EMSAC, dated October 20, 2015, available here: *https://www.sec.gov/spotlight/*

Continued

today, equity trading is currently dispersed across 16 exchanges,[60] numerous alternative trading systems,[61] broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share.[62]

Further, low barriers to entry mean that new exchanges may, and do, rapidly and inexpensively enter the market and offer additional substitute platforms to compete with the Exchange.[63] For example, in 2020 alone, three new exchanges have entered the market: Long Term Stock Exchange (LTSE), which began operations as an exchange on August 28, 2020;[64] Members Exchange (MEMX), which began operations as an exchange on September 29, 2020;[65] and Miami International Holdings (MIAX), which began operations of its first equities exchange on September 29, 2020.[66]

These low barriers enable existing exchange customers to disintermediate and start their own exchanges if they think the prices charged for exchange proprietary market data products are too high. This is precisely the rationale behind the creation of MEMX, which was formed by some of the largest and most well capitalized financial firms that are also Exchange customers (including Bank of America, BlackRock, Charles Schwab, Citadel, Citi, E*Trade, Fidelity, Goldman Sachs, J.P. Morgan, Jane Street, Morgan Stanley, TD Ameritrade, and others).[67]

For example, one of MEMX's founding principles is that exchange proprietary market data prices are too high, and that MEMX will benefit its members by offering ''[l]ower pricing on market data.''[68] Nor is this a new phenomenon: Exchange customers formed BATS to compete with incumbent exchanges and once registered as an exchange in 2008, BATS did not initially charge for market data. The BATS venture was a financial success for its founders, first through recouping their investment in its initial public offering and then in the subsequent sale of BATS to Cboe, which now charges for market data from those exchanges. Notably, MEMX has some of the same founding broker-dealer customers, leading some to dub MEMX ''BATS 2.0.''[69]

The fact that this cycle is viable and repeatable by entities that both trade on and compete with existing exchanges confirms that barriers to entry are low and that these markets are competitive and contestable.[70] And low barriers to entry act as a market check on high prices.[71]

Given Professor Rysman's conclusion that exchanges are platforms for market data and trading, this fierce competition for order flow on the trading side of the platform acts to constrain, or ''discipline,'' the pricing of market data on the other side of the platform.[72] And due to the ready availability of substitutes and the low cost to move order flow to those substitute trading venues, an exchange setting market data fees that are not at competitive levels would expect to quickly lose business to alternative platforms with more attractive pricing.[73] Although the various exchanges may differ in their strategies for pricing their market data products and their transaction fees for trades—with some offering market data for free along with higher trading costs, and others charging more for market data and comparatively less for trading—the fact that exchanges are platforms ensures that no exchange makes pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform.[74]

In sum, the fierce competition for order flow thus constrains any exchange from pricing its market data at a supracompetitive price, and constrains the Exchange in setting its fees at issue here.

The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute platforms offering market data products and trading. Such substitutes need not be identical, but only substantially similar to the product at hand.

More specifically, in reducing specified fees for the NYSE American BBO and NYSE American Trades market data products, the Exchange is constrained by the fact that, if its pricing across the platform is unattractive to customers, customers have their pick of an increasing number of alternative platforms to use instead of the Exchange. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in

emsac/memo-maker-taker-fees-on-equities-exchanges.pdf.

[60] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[61] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[62] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[63] *See* Jones Paper at 10–11.

[64] *See* LTSE Market Announcement: MA–2020–020, dated August 14, 2020, announcing LTSE production securities phase-in planned for August 28, available here: *https://assets.ctfassets.net/cchj2z2dcfyd/rnGvgggJUplaIk6N1xNA7/41926d3925a177d6455868090c46aeda/MA-2020-020__Production_Securities_Launching_August_28_-_Google_Docs.pdf* and LTSE Market Announcement: MA–2020–025, available here: *https://assets.ctfassets.net/cchj2z2dcfyd/52nIKwAuOraU1agaNY5j80/0d27ab0eb9b540c67a5e9f831f23f0ac/MA-2020-025.pdf.*

[65] As of October 29, 2020, MEMX is trading all NMS symbols but has not yet enabled NMS routing. *See https://info.memxtrading.com/trader-alert-20-10-memx-trading-symbols-update/.*

[66] *See* MIAX Pearl Press release, dated September 29, 2020, available here: *https://www.miaxoptions.com/sites/default/files/alert-files/MIAX_Press_Release_09292020.pdf.*

[67] MEMX Home Page (''Founded by members and investors, MEMX aims to drive simplicity, efficiency, and competition in equity markets.''), available at *https://memx.com/.*

[68] MEMX home page, available at *https://memx.com/.*

[69] *See* ''MEMX turns up the heat on US stock exchanges,'' Financial Times, January 9, 2019, available at *https://www.ft.com/content/4908c8b0-1418-11e9-a581-4ff78404524e; see also* ''US equities exchanges: If you can't beat them, join them,'' Euromoney, February 13, 2019, available at *https://www.euromoney.com/article/b1d3tfby4p3y4v/us-equities-exchanges-if-you-cant-beat-them-join-them.*

[70] *United States* v. *SunGard Data Sys.,* 172 F. Supp. 2d 172, 186 (D.D.C. 2001) (recognizing that ''[a]s a matter of law, courts have generally recognized that when a customer can replace the services of an external product with an internally-created system, this captive output (*i.e.,* the self-production of all or part of the relevant product) should be included in the same market.''). In *SunGard,* the court rejected the Antitrust Division's attempt to block SunGuard's acquisition of the disaster recovery assets of Comdisco on the basis that the acquisition would ''substantially lessen competition in the market for shared hotsite disaster recovery services,'' when the evidence showed that ''internal hotsites'' created by customers competed with the ''external shared hotsite business'' engaged in by the merging parties. *Id.* at 173–74, 187.

[71] *United States* v. *Baker Hughes,* 908 F.2d 981, 987 (1990) (''In the absence of significant barriers [to entry], a company probably cannot maintain supracompetitive pricing for any length of time.''); *see also* David S. Evans and Richard Schmalensee, Markets with Two-Sided Platforms, in 1 Issues In Competition Law And Policy 667, 685 (ABA Section of Antitrust Law 2008) (noting that exchange mergers in 2005 and 2006 were approved by competition authorities in part in reliance on planned and likely entry of other firms).

[72] Rysman Paper ¶ 98.

[73] *See* Jones Paper at 11.

[74] In the context of the fee proposal that led to the National IF Approval Order, *supra* note 33, one commenter contended that trading was not a platform with exchange proprietary market data, and that the exchanges' proprietary market data products were instead ''complements'' for which exchanges could charge supracompetitive prices. Professor Rysman debunked these contentions in an additional paper. *See* Marc Rysman, *Complements, Competition, and Exchange Proprietary Data Products,* August 13, 2020 (Exhibit 3D).

order to establish reasonable fees. The existence of numerous alternative platforms to the Exchange's platform ensures that the Exchange cannot set unreasonable market data fees without suffering the negative effects of that decision in the fiercely competitive market for trading order flow.

d. The Availability of Substitute Market Data Products Constrains Fees for NYSE American BBO, NYSE American Trades, and NYSE BQT

Even putting aside the facts that exchanges are platforms and that pricing decisions on the two sides of the platform are intertwined, the Exchange is constrained in setting the proposed market data fees by the availability of numerous substitute market data products. The Commission has been clear that substitute products need not be identical, but only substantially similar to the product at hand.[75]

The NYSE BQT market data product is subject to significant competitive forces that constrain its pricing. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. In the case of NYSE BQT, this product provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, which together account for approximately 22% of consolidated U.S. equities trading volume as of September 2020.[76] Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and are not intended to be used for order routing or trading decisions.

In addition to competing with proprietary data products from Nasdaq and Cboe, NYSE BQT also competes with the consolidated data feed. However, the Exchange does not claim that NYSE BQT is a substitute for consolidated data with respect to requirements under the Vendor Display Rule, which is Regulation NMS Rule 603(c).

The fact that this filing is proposing reductions in certain fees and fee waivers is itself confirmation of the inherently competitive nature of the market for the sale of proprietary market data. For example, in August 2019, Cboe filed proposed rule changes to reduce certain of its Cboe One Feed fees and noted that it attracted two additional customers because of the reduced fees.[77] More recently, Nasdaq filed a proposed rule change to lower the enterprise license fee for broker-dealers distributing Nasdaq Basic to internal Professional subscribers and the enterprise license fee for broker-dealers distributing Nasdaq Last Sale to Professional subscribers.[78]

The Exchange notes that NYSE American BBO, NYSE American Trades, and NYSE BQT are entirely optional. The Exchange is not required to make the proprietary data products that are the subject of this proposed rule change available or to offer any specific pricing alternatives to any customers, nor is any firm or investor required to purchase the Exchange's data products. Unlike some other data products (*e.g.,* the consolidated quotation and last-sale information feeds) that firms are required to purchase in order to fulfil regulatory obligations,[79] a customer's decision whether to purchase any of the Exchange's proprietary market data feeds is entirely discretionary. Most firms that choose to subscribe to proprietary market data feeds from the Exchange and its affiliates do so for the primary goals of using them to increase their revenues, reduce their expenses, and in some instances compete directly with the Exchange's trading services. Such firms are able to determine for

[75] For example, in the National IF Approval Order, the Commission recognized that for some customers, the best bid and offer information from consolidated data feeds may function as a substitute for the NYSE National Integrated Feed product, which contains order by order information. *See* National IF Approval Order, *supra* note 33, at 67397 [release p. 21] (''[I]nformation provided by NYSE National demonstrates that a number of executing broker-dealers do not subscribe to the NYSE National Integrated Feed and executing broker-dealers can otherwise obtain NYSE National best bid and offer information from the consolidated data feeds.'' (internal quotations omitted)).

[76] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share/market/2019-10-31/.*

[77] *See* Securities Exchange Act Release Nos. 86667 (August 14, 2019) (SR–CboeBZX–2019–069); 86670 (August 14, 2019) (SR–CboeBYX–2019–012); 86676 (August 14, 2019) (SR–CboeEDGA–2019–013); and 86678 (August 14, 2019) (SR–CboeEDGX–2019–048) (Notices of filing and Immediate effectiveness of proposed rule change to reduce fees for the Cboe One Feed) (collectively ''Cboe One Fee Filings''). The Cboe One Fee Filings were in effect from August 1, 2019 until September 30, 2019, when the Commission suspended them and instituted proceedings to determine whether to approve or disapprove those proposals. *See, e.g.,* Securities Exchange Act Release No. 87164 (September 30, 2019), 84 FR 53208 (October 4, 2019) (SR–CboeBZX–2019–069). On October 1, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings on the basis that they had new customers subscribe as a result of the Cboe One Fee Filings, and therefore its fee proposal had increased competition for top-of-book market data. *See* Securities Exchange Act Release Nos. 87312 (October 15, 2019), 84 FR 56235 (October 21, 2019) (SR–CboeBZX–2019–086); 87305 (October 14, 2019), 84 FR 56210 (October 21, 2019) (SR–CboeBYX–2019–015); 87295 (October 11, 2019), 84 FR 55624 (October 17, 2019) (SR–CboeEDGX–2019–059); and 87294 (October 11, 2019), 84 FR 55638 (October 17, 2019) (SR–CboeEDGA–2019–015) (Notices of filing and immediate effectiveness of proposed rule changes to re-file the Small Retail Broker Distribution Program) (''Cboe One Fee Re-Filings''). On November 26, 2019, the Commission suspended the Cboe One Fee Re-Filings and instituted proceedings to determine whether to approve or disapprove those proposals. *See, e.g.,* Securities Exchange Act Release No. 87629 (November 26, 2019), 84 FR 66245 (December 3, 2019) (SR–CboeBZX–2019–086). On November 27, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings with one revision to the requirements for participating in the Small Retail Broker Distribution Program and additional information about the basis for the proposed fee changes. *See* Securities Exchange Act Release Nos. 87712 (December 10, 2019), 84 FR 68508 (December 16, 2019) (SR–CboeBZX–2019–101); 88713 (December 10, 2019), 84 FR 68530 (December 16, 2019) (SR–CboeBYX–2019–023); 87709 (December 10, 2019), 84 FR 68523 (December 16, 2019) (SR–CboeEDGA–2019–021); and 87711 (December 10, 2019), 84 FR 68501 (December 16, 2019) (SR–Cboe–EDGX–2019–071) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) (''Cboe One Third Fee Re-Filings''). On February 4, 2020, the Cboe equities exchanges withdrew the Cboe One Third Fee Re-Filings and, on the same date, refiled the Cboe One Fee Filings. *See* Securities Exchange Act Release Nos. 88221 (February 14, 2020), 85 FR 9904 (February 20, 2020) (SR–CboeBYX–2020–007); 88218 (February 14, 2020), 85 FR 9827 (February 20, 2020) (SR–CboeBZX–2020–014); 88220 (February 14, 2020), 85 FR 9912 (February 20, 2020) (SR–CboeEDGA–2020–004); and 88219 (February 14, 2020), 85 FR 9872 (February 20, 2020) (SR–CboeEDGX–2020–008) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) (''Cboe One Fourth Fee Re-Filings''). On April 15, 2020, the Cboe equities exchanges withdrew the Cboe One Fee Filings and the Cboe One Fee Re-Filings. Pursuant to the Cboe One Fourth Fee Re-Filings, the Small Retail Broker Distribution Program is currently in effect at the Cboe equities exchanges.

[78] *See* Securities Exchange Act Release No. 90177 (October 14, 2020), 85 FR 66620 (October 20, 2020) (SR–NASDAQ–2020–065) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Lower the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Basic to Internal Professional Subscribers as Set Forth in the Equity 7 Pricing Schedule, Section 147, and the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Last Sale to Professional Subscribers at Equity 7, Section 139).

[79] The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations. *See In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations,* Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.

themselves whether or not the products in question or any other similar products are attractively priced. If market data feeds from the Exchange and its affiliates do not provide sufficient value to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use the products.[80]

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Refinitiv, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. This competitive constraint is precisely what is driving the proposed fee changes here, which are designed to attract new market data vendors, and through them new subscribers, to the NYSE BQT product. Currently, only four vendors subscribe to NYSE BQT, and each vendor has limited redistribution of NYSE BQT. No other vendors currently subscribe to NYSE BQT and likely will not unless their customers request it, and customers will not elect to pay the proposed fees unless such product can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Because of the availability of substitutes, an exchange that overprices its market data products stands a high risk that users may substitute another source of market data information for its own. Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The existence of numerous alternatives to the Exchange's platform and, more specifically, alternatives to the market data products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

2. The Proposed Fees Are Reasonable

The specific fees that the Exchange proposes for NYSE American BBO and NYSE American Trades are reasonable, for the following additional reasons.

Overall. This proposed fee change is a result of the competitive environment, as the Exchange seeks to decrease certain of its fees to attract Redistributors that do not currently subscribe to the NYSE BQT market data product. The Exchange is proposing the fee reductions at issue to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, and expanding the options available to firms making data purchasing decisions based on their business needs. The Exchange believes that this is consistent with the principles contained in Regulation NMS to ''promote the wide availability of market data and to allocate revenues to SROs that produce the most useful data for investors.'' [81]

Access Fee. By making the reduced Per User Access Fee available to Redistributors that subscribe only to the NYSE American BBO and NYSE American Trades data feeds and NYSE BQT and do not have any internal use of such products, and do not subscribe to any other products listed on the Fee Schedule, the Exchange believes that more Redistributors may choose to subscribe to these products, thereby expanding the distribution of this market data for the benefit of investors that participate in the national market system and increasing competition generally. The Exchange also believes that offering the Per User Access Fee to these Redistributors would expand the availability of NYSE BQT to potential data recipients that are interested in subscribing to NYSE BQT but do not have access to a Redistributor who subscribes to the data feeds.

The Exchange determined to make the reduced Per User Access Fee available to these Redistributors because it constitutes a substantial reduction of the current fee, with the intended purpose of increasing use of NYSE BQT by Redistributors that do not currently subscribe to any NYSE American market data products. NYSE BQT has been in place since 2014 but has a very small number of subscribers. The Exchange believes that in order to compete with other indicative pricing products such as Nasdaq Basic and Cboe One Feed, it needs to provide a meaningful financial incentive for more Redistributors to choose to subscribe to NYSE BQT so that they can make it available to their customers. Accordingly, the proposed reduction to the access fees for NYSE American BBO and NYSE American Trades, together with the proposed reduction to the access fees for NYSE BBO, NYSE Trades, NYSE Arca BBO, and NYSE Arca Trades, is reasonable because the reductions will make NYSE BQT a more attractive offering for Redistributors that do not currently subscribe to any NYSE American market data products and make it more competitive with Nasdaq Basic and Cboe One Feed. For example, the External Distribution Fee for Cboe One Feed is currently $5,000 (which is the sum of the External Distribution fees for the four exchange data products that are included in Cboe One Feed) plus a Data Consolidation Fee of $1,000, for a total of $6,000. Evidence of the competition among exchange groups for these products has previously been demonstrated via fee changes. For example, following the introduction of the Cboe One Feed, Nasdaq responded by reducing its fees for the Nasdaq Basic product.[82] With the proposed changes by the Exchange, NYSE, and NYSE Arca, the Exchange is similarly seeking to compete by decreasing the total access fees for NYSE BQT from $6,250 to $850 for Redistributors that do not currently subscribe to any NYSE American market data products and have customers that are interested in subscribing to NYSE BQT but cannot do so until their Redistributor also subscribes. This proposed rule change therefore demonstrates the existence of an effective, competitive market because this proposal resulted from a need to generate innovative approaches in response to competition from other exchanges that offer market data for a specific segment of market participants.

[80] *See generally* Jones Paper at 8, 10–11.

[81] *See* Regulation NMS Adopting Release, 70 FR 37495, at 37503.

[82] *See e.g.,* Securities Exchange Act Release No. 83751 (July 31, 2018), 83 FR 38428 (August 6, 2018) (SR–NASDAQ–2018–058) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Lower Fees and Administrative Costs for Distributors of Nasdaq Basic, Nasdaq Last Sale, NLS Plus and the Nasdaq Depth-of-Book Products Through a Consolidated Enterprise License). Nasdaq filed the proposed fee change to lower the Enterprise Fee for Nasdaq Basic and other market data products in response to the Enterprise Fee for the Cboe One Feed adopted by Cboe family of exchanges.

Redistribution Fees. Similarly, the proposed waiver of the NYSE American Trades Redistribution Fee is reasonable because it is designed to provide an incentive for Redistributors to make NYSE BQT available so that data recipients can subscribe to NYSE BQT. The Exchange further believes that the proposed waiver of the NYSE American Trades Redistribution Fee is reasonable because it is designed to compete with market data products offered by the Cboe family of equity exchanges.[83]

For all of the foregoing reasons, the Exchange believes that the proposed fees are reasonable.

The Proposed Fees Are Equitably Allocated

The Exchange believes the proposed fees for NYSE American BBO and NYSE American Trades are allocated fairly and equitably among the various categories of users of the feed, and any differences among categories of users are justified.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to access NYSE American BBO and NYSE American Trades for Redistributors that would be subscribing only to the NYSE American BBO and NYSE American Trades data feeds and would use these market data products for external distribution only, which the Exchange hopes will attract new Redistributor subscribers for the NYSE BQT market data product so that the product can be made available to prospective market data recipients. The Exchange is proposing the fee reductions to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions based on their business needs, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be subscribing only to the NYSE American BBO and NYSE American Trades data feeds and would use these market data products for external distribution only is equitable as it would apply equally to all data recipients that choose to subscribe to NYSE American BBO or NYSE American Trades for external distribution only and who do not subscribe to any other products listed on the Fee Schedule. Because NYSE American BBO and NYSE American Trades are optional products, any data recipient could choose to subscribe only to NYSE American BBO or NYSE American Trades to distribute externally and be eligible for the proposed reduced fee. The Exchange does not believe that it is inequitable that this proposed fee reduction would be available only to data recipients that subscribe only to NYSE American BBO or NYSE American Trades and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. For example, non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate order matching and execution platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. Although some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce the recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting end users. The Exchange believes that charging a different access fee for a Redistributor that is engaged solely in external distribution of only the NYSE American BBO and NYSE American Trades products is equitable because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

Redistribution Fees. The Exchange believes the proposed change to provide a waiver of the Redistribution Fee to a Redistributor that would be eligible for the Per User Access Fee because it only externally redistributes NYSE American Trades to at least one data feed recipient is equitably allocated. The proposed change would apply equally to all Redistributors that are eligible for the Per User Access Fee and choose to externally redistribute the NYSE American Trades product, and would serve as an incentive for Redistributors to make NYSE American Trades more broadly available for use by both Professional and Non-Professional Users. This, in turn, could provide an incentive for Redistributors that do not currently subscribe to any NYSE American market data products to subscribe to NYSE BQT and make it available to their customers.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE American market data products are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to provide a financial incentive for Redistributors that do not currently subscribe to any NYSE American market data products that decide to subscribe to NYSE BQT, which the Exchange hopes will attract more subscribers for the NYSE BQT market data product. The Exchange is proposing the fee reductions to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions based on their business needs, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be subscribing only to the NYSE American BBO and NYSE American Trades data feeds and would use these market data products for external distribution only is not unfairly discriminatory as it would apply equally to all Redistributors that choose to subscribe to NYSE American BBO or NYSE American Trades for external distribution only and who do not subscribe to any other products listed on the Fee Schedule. Because NYSE American BBO and NYSE American

[83] *See, e.g.,* BZX Price List—U.S. Equities available at *http://www.nasdaqtrader.com/Trader.aspx?id=DPUSdata#db.* BZX charges $500 per month for internal distribution, and $2,500 per month for external distribution, of BZX Last Sale. BZX also charges $500 per month for internal distribution, and $2,500 per month for external distribution, of BZX Top. *See* Cboe BZX U.S. Equities Exchange Fee Schedule at *http://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

Trades are optional products, any data recipient could choose to subscribe only to NYSE American BBO or NYSE American Trades to distribute externally and be eligible for the proposed reduced fee. The Exchange does not believe that it is unfairly discriminatory that this proposed fee reduction would be available only to data recipients that subscribe only to NYSE American BBO or NYSE American Trades and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. For example, non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate order matching and execution platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. While some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce the recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting end users. The Exchange therefore believes that there is a meaningful distinction between internal use and redistribution of market data and that charging a different access fee to a Redistributor that is engaged solely in external distribution of only the NYSE American BBO and NYSE American Trades products is not unfairly discriminatory because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

Moreover, the Exchange does not believe that it is unfairly discriminatory to offer the Per User Access Fee only to those Redistributors that would subscribe only to the NYSE American BBO and NYSE American Trades data feeds and no other products on the Fee Schedule, and only for external distribution. The Exchange does not currently have any Redistributors that fit this description. This proposed rule change is designed to provide an incentive for Redistributors that do not currently subscribe to NYSE BQT or any other products listed on the Fee Schedule, but have customers that are interested in subscribing to NYSE BQT, to subscribe to the NYSE American BBO and NYSE American Trades data feeds so that they can make NYSE BQT available to their customers. This fee incentive is not necessary for Redistributors that currently subscribe to the NYSE American BBO and NYSE American Trades data feeds because such Redistributors could already subscribe to NYSE BQT, but have chosen not to, and a reduction in their existing access fees would likely not result in such Redistributors choosing to subscribe to NYSE BQT.

Redistribution Fees. The Exchange believes the proposed change to provide a waiver of the Redistribution Fee to a Redistributor that would be eligible for the Per User Access Fee because it only externally redistributes NYSE American Trades to at least one data recipient is not unfairly discriminatory. The proposed waiver would apply equally to all Redistributors that are eligible for the Per User Access Fee and choose to externally redistribute the NYSE American Trades product, and would serve as an incentive for Redistributors that do not currently subscribe to any NYSE American market data products to subscribe to NYSE American Trades and then make NYSE BQT available to their customers.

For all of the foregoing reasons, the Exchange believes that the proposed fees are not unfairly discriminatory.

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. Indeed, as demonstrated above, the Exchange believes the proposed rule changes are pro-competitive.

Intramarket Competition. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the proposed fee schedule would apply to all subscribers of NYSE American market data products, and customers may not only choose whether to subscribe to the products at all, but also may tailor their subscriptions to include only the products and uses that they deem suitable for their business needs. The Exchange also believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue market on competition. As shown above, to the extent that particular proposed fees apply to only a subset of subscribers, those distinctions are not unfairly discriminatory and do unfairly burden one set of customers over another.

Intermarket Competition. The Exchange believes that the proposed fees do not impose a burden on competition on other exchanges that is not necessary or appropriate; indeed, the Exchange believes the proposed fee changes would have the effect of increasing competition. As demonstrated above and in Professor Rysman's paper, exchanges are platforms for market data and trading. In setting the proposed fees, the Exchange is constrained by the availability of substitute platforms also offering market data products and trading, and low barriers to entry mean new exchange platforms are frequently introduced. The fact that exchanges are platforms ensures that no exchange can make pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform. In setting fees at issue here, the Exchange is constrained by the fact that, if its pricing across the platform is unattractive to customers, customers will have its pick of an increasing number of alternative platforms to use instead of the Exchange. Given this intense competition between platforms, no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

In addition, the Exchange believes that the proposed fees do not impose a burden on competition or on other exchanges that is not necessary or appropriate because of the availability of numerous substitute market data products. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. NYSE BQT provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, while Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and therefore, are reasonable substitutes for one another. Additionally, market data vendors are also able to offer close substitutes to NYSE BQT. Because market data users can find suitable substitute feeds, an

exchange that overprices its market data products stands a high risk that users may substitute another source of market data information for its own. These competitive pressures ensure that no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [84] of the Act and subparagraph (f)(2) of Rule 19b–4 [85] 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) [86] 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–2020–79 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–2020–79. 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–2020–79, and should be submitted on or before December 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[87]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25390 Filed 11–17–20; 8:45 am]

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[84] 15 U.S.C. 78s(b)(3)(A).

[85] 17 CFR 240.19b–4(f)(2).

[86] 15 U.S.C. 78s(b)(2)(B).

[87] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90410; File No. SR–NYSEAMER–2020–80]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the NYSE American Options Fee Schedule Regarding the Amount of Rebates for Initiating a Complex Customer Best Execution Auction

November 12, 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 November 2, 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, 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 the NYSE American Options Fee Schedule (''Fee Schedule'') regarding the amount of rebates for initiating a Complex Customer Best Execution Auction. The Exchange proposes to implement the fee change effective November 2, 2020. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[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 purpose of this filing is to modify the Fee Schedule regarding certain of the credits available to Initiating Participants in a Complex Customer Best Execution (''CUBE'') auctions.[4] The Exchange proposes to implement the rule changes on November 2, 2020.

Section I.G. of the Fee Schedule sets forth the rates for per contract fees and credits for executions associated with Single-Leg and Complex CUBE Auctions.[5] To encourage participants to utilize Complex CUBE Auctions, the Exchange offers rebates and credits on certain initiating Complex CUBE volume. Currently, the Exchange offers credit to the Initiating Participant for each contract in a Complex Contra Order paired with a Complex CUBE Order that does not trade with the Complex CUBE Order because it is replaced in the auction.[6] The Exchange offers an alternative enhanced Initiating Participant credit to ATP Holders that qualify for Tier 5 of the American Customer Engagement (''ACE'') Program[7] and also execute more than 1% TCADV in monthly Initiating Complex CUBE Orders—($0.45) per contract for Penny issues and ($0.90) per contract for Non-Penny issues (the ''Enhanced Initiating Credit'').[8]

The Exchange proposes to modify (reduce) the Enhanced Initiating Credit to ($0.38) per contract for Penny issues and ($0.80) per contract for Non-Penny issues and to amend the Fee Schedule to reflect this change.[9] As noted above, volume executed in Electronic auction mechanisms, such as the Complex CUBE, has increased across the industry. As such, the Exchange believes that, even with the proposed reduction, the Enhanced Initiating Credit would still encourage participants to try to achieve this Credit by directing more auction-eligible Complex order flow to the Exchange.[10]

The Exchange's fees are constrained by intermarket competition, as ATP Holders may direct their order flow to any of the 16 options exchanges, including those with similar incentive programs for auction participants.[11] Thus, ATP Holders have a choice of where they direct their order flow, including auction volume which, as noted above, has increased in the last year.

To the extent that the proposed modification continues to encourage the submission of Complex CUBE Orders, all market participants stand to benefit from increased liquidity and opportunities for price improvement. Because the Enhanced Initiating Credit is tied to Customer (ACE) order flow—in addition to initiating Complex CUBE volume, the Exchange believes all market participants stand to benefit from increased order flow, which promotes market depth, facilitates tighter spreads and enhances price discovery.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[14]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[15] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in August 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[16]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees and rebates can have a direct effect on the ability of an exchange to compete for order flow including auction volume which, as noted above, has increased in the last year.

The proposed rule change is designed to continue to incent ATP Holders to direct liquidity to the Exchange in Electronic executions, similar to other exchange programs with competitive pricing programs, thereby promoting market depth, price discovery and improvement and enhancing order execution opportunities for market

[4] *See generally* Rule 971.2NY (regarding Complex CUBE Auctions). Unless otherwise specified, capitalized terms have the same meaning as the defined terms in Rule 971.2NY.

[5] *See* Fee Schedule, Section I.G., CUBE Auction Fees & Credits.

[6] *See id.,* Complex CUBE Auction, note 1 (setting forth the available credit for ATP Holders that achieve one of the five ACE Tiers). The Exchange proposes to correct a typographical error in the last sentence of note 1 to the Complex CUBE Auction table to change the reference to ''an alternative Initiating Participant Credits'' from plural to singular, which would add clarity and transparency to the Fee Schedule. *See* proposed Fee Schedule, Section I.G., CUBE Auction Fees & Credits Complex CUBE Auction, note 1.

[7] *See* Fee Schedule Section I.E., American Customer Engagement (''ACE'') Program.

[8] *See* Fee Schedule, Section I.G., Complex CUBE Auction, note 1. ATP Holders that achieve ACE Tier 5 but do not satisfy the monthly Initiating Complex CUBE Order volume requirement receive a ($0.35) per contract for Penny issues and ($0.75) per contract for Non-Penny issues. *See* Fee Schedule, Section I.G., Complex CUBE Auction, Initiating Participant Credit table (setting forth credit for Tier 5).

[9] *See* proposed Fee Schedule, Section I.G., CUBE Auction Fees & Credits Complex CUBE Auction, note 1.

[10] A daily analysis of OPRA trade codes indicates that auction volume has increased from 19.2% of all options industry volume at the end of 2019 to 23.4% at the end of June 2020. *See, e.g., https://www.nyse.com/data-insights/q2-2020-options-review.*

[11] *See e.g.,* Cboe Exchange Inc. (''Cboe''), Fee Schedule, Break-Up Credits, *available here, https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf* (providing per contract credits for Agency volume executed against noncustomer, non-Market Maker AIM response in Cboe's complex price improvement auction).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[15] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/market-data/volume/default.jsp.*

[16] Based on OCC data, *see id.,* the Exchange's market share in equity and ETF-based options increased from 7.73% for the month of August 2019 to 8.18% for the month of August 2020.

participants. In particular, the Exchange believes it is reasonable to adjust the Enhanced Initiating Credit for Complex CUBE orders downward as such credits remain consistent with credits offered by competing options exchanges for initiating auction participants and account for the increase in auction volume since late 2019.[17]

The proposed change is reasonably designed to continue to encourage ATP Holders to participate in the Complex CUBE Auctions and to further increase their initiating Complex CUBE Orders or maintain their ACE Tier level (*i.e.,* Tier 5) to qualify for the Credit. The Exchange believes that maintaining the qualification bases to achieve the Complex CUBE Enhanced Initiating Credit should continue to encourage greater use of the CUBE Auctions by all ATP Holders, which may lead to greater opportunities to trade—and for price improvement—for all participants. In addition, ATP Holders that qualify for the proposed Enhanced Initiating Credit must achieve ACE Tier 5—the highest ACE Tier. Because the ACE Program is based on the amount of Customer business transacted on the Exchange, the Exchange believes the proposed change would continue to incentivize providers of Customer order flow to direct that order flow to the Exchange to receive greater Complex CUBE credits in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

Further, the Exchange believes that even with the proposed reduction, the Credit would continue to attract more volume and liquidity to the Exchange generally, and to Complex CUBE Auctions specifically, and would therefore benefit all market participants (including those that do not participate in the ACE Program) through increased opportunities to trade at potentially improved prices as well as enhancing price discovery. In addition, the proposed change would continue to encourage ATP Holders to direct Complex Order volume to the Exchange, specifically via the Complex CUBE mechanism, which benefits all markets participants, particularly those that receive price improvement on their Complex Orders.

Finally, to the extent the proposed changes maintain greater volume and liquidity, the Exchange believes the proposed changes would continue to improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule changes are a reasonable attempt by the Exchange to maintain its market share relative to its competitors.

The Proposed Rule Change Is an Equitable Allocation of Fees and Rebates

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The proposal is based on the amount and type of business transacted on the Exchange and ATP Holders can opt to avail themselves of these incentives or not. Moreover, the proposal is designed to encourage ATP Holders to aggregate their executions at the Exchange as a primary execution venue. To the extent that the proposed change continues to attract more Complex CUBE (and Customer) volume to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, therefore, continue to attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because the proposed modifications would be available to all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange's proposed modification to the Enhanced Initiating Credit is designed to continue to encourage greater use of the Complex CUBE Auctions, which may lead to greater opportunities to trade—and for price improvement—for all participants.

The proposal is based on the amount and type of business transacted on the Exchange and ATP Holders are not obligated to try to achieve the incentive pricing option. Rather, the proposal is designed to continue to encourage participants to utilize the Exchange as a primary trading venue (if they have not done so previously) or increase Electronic volume sent to the Exchange. To the extent that the proposed change continues to attract more executions to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would continue to improve market quality for all market participants on the Exchange and, therefore, attract more order flow to the Exchange thereby improving market-wide quality and price discovery. The resulting volume and liquidity would continue to provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

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.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would continue to encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [18]

Intramarket Competition. The proposed change is designed to continue to attract order flow to the Exchange by offering competitive rates and credits (via the Complex CUBE Enhanced Initiating Credit) based on increased volumes on the Exchange, which would enhance the quality of quoting and may increase the volumes of contracts traded on the Exchange. To the extent that this purpose is achieved, all Exchange market participants should benefit from the continued market liquidity. Enhanced market quality and increased transaction volume that results from the increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market

[17] *See, e.g., supra* notes 10 and 11 (regarding increase in industry-wide auction volumes and Cboe's Break-Up Credits, respectively).

[18] *See* Reg NMS Adopting Release, *supra* note 14, at 37499.

participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange currently has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[19] Therefore, no exchange currently possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in August 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[20]

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees and rebates in a manner designed to encourage ATP Holders to direct trading interest to the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

The Exchange believes that the proposed changes could promote competition between the Exchange and other execution venues, including those that currently offer similar pricing incentives, by encouraging additional orders to be sent to the Exchange for execution.[21]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[22] of the Act and subparagraph (f)(2) of Rule 19b–4[23] 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)[24] 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–2020–80 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–2020–80. 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–2020–80, and should be submitted on or before December 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

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[19] *See supra* note 15.

[20] Based on OCC data, *supra* note 16, the Exchange's market share in equity-based options increased from 7.73% for the month of August 2019 to 8.18% for the month of August 2020.

[21] *See, e.g., supra* note 11 (regarding Cboe's Break-Up Credits).

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(2).

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90407; File No. SR–NYSE–2020–91]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE BBO and NYSE Trades by Modifying the Application of the Access Fee and Amending the Fees for NYSE Trades by Adopting a Waiver Applicable to the Redistribution Fee

November 12, 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 November 2, 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend the fees for NYSE BBO and NYSE Trades by modifying the application of the Access Fee; and (2) amend the fees for NYSE Trades by adopting a waiver applicable to the Redistribution Fee.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The Exchange proposes to implement the proposed fee changes on January 1, 2021. 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 decrease the fees for certain NYSE market data products, as set forth on the NYSE Proprietary Market Data Fee Schedule (''Fee Schedule''). These fee decreases, taken together with similar fee decreases filed by the Exchange's affiliated exchanges, NYSE American LLC (''NYSE American'') and NYSE Arca, Inc. (''NYSE Arca''),[3] will reduce the fees associated with the NYSE BQT proprietary data product, which competes directly with similar products offered by both the Nasdaq and Cboe families of U.S. equity exchanges. Collectively, the proposed fee decreases are intended to respond to the competition posed by similar products offered by the other exchange groups.

Specifically, the Exchange proposes to (1) reduce the Access Fees by more than 93% for Redistributors[4] of NYSE BBO and NYSE Trades that subscribe to only such data feeds and do not subscribe to any other market data product listed on the Fee Schedule other than NYSE BQT, and use such market data products for external distribution only; and (2) waive the Redistribution Fee for Redistributors that are eligible for the Per User Access Fee if the Redistributor provides NYSE Trades externally to at least one data feed recipient and reports such recipient to the Exchange. All of the proposed changes would decrease fees for market data on the Exchange.

The Exchange proposes to implement these proposed fee changes on January 1, 2021.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[5]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.''[6] Indeed, equity trading is currently dispersed across 16 exchanges,[7] numerous alternative trading systems,[8] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share (whether including or excluding auction volume).[9]

With the NYSE BQT market data product, NYSE and its affiliates compete head to head with the Nasdaq Basic[10] and Cboe One Feed[11] market data products. Similar to those market data products, NYSE BQT, which was established in 2014,[12] consists of certain elements from the NYSE BBO and NYSE Trades market data products as well as from market data products from the Exchange's affiliates, NYSE American, NYSE Arca, NYSE Chicago, Inc. (''NYSE Chicago''),[13] and NYSE National, Inc. (''NYSE National'').[14] Similar to both Nasdaq Basic and the Cboe One Feed, NYSE BQT provides investors with a unified view of comprehensive last sale and BBO data in all Tape A, B, and C securities that trade on the Exchange, NYSE American, NYSE Arca, NYSE Chicago, and NYSE National. Also similar to Nasdaq Basic and the Cboe One Feed, NYSE BQT is not intended to be used for purposes of making order-routing or trading decisions, but rather provides indicative prices for Tape A, B, and C securities.[15]

The Exchange currently charges an access fee of $250 per month for NYSE BQT, and, as provided for in footnote 5 to the Fee Schedule, to subscribe to NYSE BQT, subscribers must also subscribe to, and pay applicable fees for, NYSE BBO, NYSE Trades, NYSE American BBO, NYSE American Trades, NYSE Arca BBO, NYSE Arca Trades, NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, and NYSE National Trades. Thus, an NYSE BQT subscriber currently pays the $250 access fee for NYSE BQT,[16] plus a $1,500 access fee for each of NYSE BBO and NYSE Trades, plus a $750 access fee for each of NYSE American BBO and

[3] *See* SR–NYSEAmer–2020–79 and SR–NYSEArca–2020–95.

[4] A Redistributor is a vendor or any other person that provides a NYSE data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS Adopting Release'').

[6] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[7] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[8] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[9] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[10] As described on the Nasdaq website, available here: *http://www.nasdaqtrader.com/Trader.aspx?id=nasdaqbasic,* Nasdaq Basic is a ''low cost alternative'' that provides ''Best Bid and Offer and Last Sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center, as well as trades reported to the FINRA Trade Reporting Facility (''TRF'').''

[11] As described on the Cboe website, available here: *https://markets.cboe.com/us/equities/market_data_services/cboe_one/,* the Cboe One Feed is a ''market data product that provides cost-effective, high-quality reference quotes and trade data for market participants looking for comprehensive, real-time market data'' and provides a ''unified view of the market from all four Cboe equity exchanges: BZX Exchange, BYX Exchange, EDGX Exchange, and EDGA Exchange.''

[12] *See* Securities Exchange Act Release Nos. 72750 (August 4, 2014), 79 FR 46494 (August 8, 2014) (notice—NYSE BQT); and 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (approval order—NYSE BQT) (SR–NYSE–2014–40) (''NYSE BQT Filing'').

[13] In 2019, NYSE BQT was amended to include NYSE Chicago BBO and NYSE Chicago Trades. *See* Securities Exchange Act Release No. 87511 (November 12, 2019), 84 FR 63689 (November 18, 2019) (SR–NYSE–2019–60).

[14] In 2018, NYSE BQT was amended to include NYSE National BBO and NYSE National Trades. *See* Securities Exchange Act Release No. 83359 (June 1, 2018), 83 FR 26507 (June 7, 2018) (SR–NYSE–2018–22).

[15] *See* NYSE BQT Filing, *supra* note 13.

[16] The Exchange is not proposing any change to the $250 access fee for NYSE BQT.

NYSE American Trades,[17] plus a $750 access fee for each of NYSE Arca BBO and NYSE Arca trades,[18] for a total of $6,250 ($250 + $3,000 + $1,500 + $1,500).[19] In addition, an NYSE BQT subscriber would need to pay for the applicable Professional or Non-Professional User Fees for the underlying market data products, as applicable.[20]

Because NYSE BQT is priced based on the fees associated with the underlying ten market data feeds, the Exchange and its affiliates propose to compete with the Nasdaq Basic and Cboe One Feed by reducing fees for the underlying market data products that comprise NYSE BQT. Together with NYSE American and NYSE Arca, the Exchange similarly proposes to compete for subscribers to NYSE BQT by designing its fee decreases to be attractive to Redistributors that intend to subscribe to and externally redistribute only NYSE BQT. The Exchange understands that data recipients that are interested in subscribing to NYSE BQT obtain their data from Redistributors that do not currently subscribe to either the NYSE BQT data feed or any other market data product listed on the Fee Schedule. Because such Redistributors do not subscribe to NYSE BQT, the prospective data recipients that are the customers of such Redistributors are unable to subscribe to NYSE BQT. The proposed fee changes are designed to provide a financial incentive for such Redistributors to subscribe to NYSE BQT so that their customers, which have expressed an interest in subscribing to NYSE BQT, would be able to access the product via such Redistributors.

Access Fee—NYSE BBO and NYSE Trades

NYSE BBO is a NYSE-only market data product that allows a vendor to redistribute on a real-time basis the same best-bid-and-offer information that NYSE reports under the Consolidated Quotation Plan (''CQ Plan'') for inclusion in the CQ Plan's consolidated quotation information data stream (''NYSE BBO Information'').[21] NYSE BBO Information includes the best bids and offers for all securities that are traded on the Exchange and for which NYSE reports quotes under the CQ Plan. NYSE BBO is available over a single data feed, regardless of the markets on which the securities are listed. NYSE BBO is made available to its subscribers no earlier than the information it contains is made available to the processor under the CQ Plan.

NYSE Trades is a NYSE-only market data product that allows a vendor to redistribute on a real-time basis the same last sale information that NYSE reports to the Consolidated Tape Association (''CTA'') for inclusion in the CTA's consolidated data stream and certain other related data elements (''NYSE Last Sale Information'').[22] NYSE Last Sale Information includes last sale information for all securities that are traded on the Exchange. NYSE Trades is made available to subscribers at the same time as the information it contains is made available to the processor under the CTA Plan.

Currently, subscribers of each of the NYSE BBO and NYSE Trades products that receive a data feed pay an Access Fee of $1,500 per month. In February 2020, the Exchange added the Per User Access Fee, which is a reduced Access Fee of $100 per month currently available only for subscribers of NYSE BBO and NYSE Trades that receive those products in a display-only format, including for internal use for Professional Users and external distribution to both Professional and Non-Professional Users.[23]

The Exchange now proposes that Redistributors of NYSE BBO and NYSE Trades data feeds that do not subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only, would also be eligible for the reduced Per User Access Fee. A Redistributor that receives a data feed of NYSE BBO and NYSE Trades and uses the market data products for any other purpose (such as internal use) or that subscribes to any other products listed on the Fee Schedule (other than NYSE BQT) would continue to pay the $1,500 per month General Access Fee. As currently set forth in footnote 8 to the Fee Schedule, a subscriber would be charged only one access fee for each of the NYSE BBO and NYSE Trades products, depending on the use of that product.

To effect this change, the Exchange proposes to modify footnote 8 to the Fee Schedule as follows (proposed text is *italicized,* proposed deletions bracketed):

The Per User Access Fee is charged to: (i) [A] *a* subscriber that receives a data feed and uses the market data product only for Professional Users and Non-Professional Users in a display-only format, including for internal use and external redistribution in a display-only format, [will be charged the Per User Access Fee] *and (ii) a Redistributor that subscribes only to the NYSE BBO and NYSE Trades data feeds, and does not subscribe to any other Products listed on this Fee Schedule other than NYSE BQT, and uses these market data products for external distribution only.* A subscriber that receives a data feed and uses the market data product for any other purpose, including if combined with Per User use, will be charged the General Access Fee. A subscriber will be charged only one access fee for each of the NYSE BBO and NYSE Trades products, depending on the use of that product.

The proposed rule change would result in lower fees for Redistributors of each of the NYSE BBO and NYSE Trades products that receive NYSE BBO and NYSE Trades data feeds and do not subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only.[24] The

[17] *See* NYSE American Equities Proprietary Market Data Fees (''NYSE American Price List''), available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Fee_Schedule.pdf.*

[18] *See* NYSE Arca Equities Proprietary Market Data Fees (''NYSE Arca Price List''), available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Fee_Schedule.pdf.*

[19] There are currently no fees charged for the NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, or NYSE National Trades market data products.

[20] The Exchange is not proposing any changes to the User Fees. Currently, the Professional User Fees for each of NYSE BBO and NYSE Trades is $4 per month, and the Non-Professional User Fees for each of NYSE BBO and NYSE Trades is $0.20 per month. *See* Fees Schedule, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.* The Professional User Fees for each of NYSE American BBO and NYSE American Trades is $4 per month, and the Non-Professional User Fees for each of NYSE American BBO and NYSE American Trades is $0.25 per month. *See* NYSE American Price List, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf.* The Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is $4 per month, and the Non-Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is $0.25 per month. *See* NYSE Arca Price List, available here: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Proprietary_Data_Fee_Schedule.pdf.*

[21] *See* Securities Exchange Act Release Nos. 61914 (April 14, 2010), 75 FR 21077 (April 22, 2010) (SR–NYSE–2010–30) (notice—NYSE BBO); and 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30) (approval order—NYSE BBO).

[22] *See* Securities Exchange Act Release Nos. 59309 (January 28, 2009), 74 FR 6073 (February 4, 2009) (SR–NYSE–2009–04) (notice—NYSE Trades); and 59309 (March 19, 2009), 74 FR 13293 (March 26, 2009) (SR–NYSE–2009–04) (approval order—NYSE Trades).

[23] A Per User Access Fee currently applies for subscribers of NYSE BBO and NYSE Trades that receive a data feed and use those market data products in a display-only format. *See* Fee Schedule. *See also* Securities Exchange Act Release No. 87803 (December 19, 2019), 84 FR 71505 (December 27, 2019) (SR–NYSE–2019–70) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Partial Amendment No. 1, To Amend the Fees for NYSE BBO and NYSE Trades) (''BQT Fee Reduction Filing'').

[24] The Per User Access Fee is 93% lower than the General Access Fee. Together with the

Exchange believes that the proposed fee reduction in NYSE BBO and NYSE Trades would provide an incentive for such Redistributors to subscribe to the NYSE BQT data feeds so that such product would be available to their customers, which have expressed an interest in subscribing to NYSE BQT.

The proposed rule change is intended to encourage greater use of NYSE BQT by making it more affordable for Redistributors that have customers interested in subscribing to NYSE BQT but that do not currently subscribe to NYSE BBO or NYSE Trades or any other products listed on the Fee Schedule. The proposed fee reduction would allow the Exchange to compete more effectively with Nasdaq Basic and Cboe One Feed by expanding the number of Redistributors that would subscribe to NYSE BQT, and therefore make the product available to data subscribers interested in NYSE BQT.

Redistribution Fee—NYSE Trades

The Exchange currently charges a Redistribution Fee of $1,000 per month for NYSE Trades. A Redistributor is required to report to the Exchange each month the number of Professional and Non-Professional Users and data feed recipients that receive NYSE Trades.

The Exchange proposes to waive the Redistribution Fee for a Redistributor that is eligible for the Per User Access Fee if the Redistributor provides NYSE Trades externally to at least one data feed recipient and reports such data feed recipient or recipients to the Exchange. For example, a Redistributor that subscribes to the NYSE BBO and NYSE Trades data feeds and does not subscribe to any other product listed on the Fee Schedule would have the Redistribution Fee waived for the month if such Redistributor provides NYSE BBO and NYSE Trades externally to at least one data feed recipient and reports such data feed recipient to the Exchange.

By targeting this proposed fee waiver to Redistributors that provide external distribution of NYSE Trades, the Exchange believes that this would provide an incentive for Redistributors to make the NYSE BQT market data product available to its customers. Specifically, if a data recipient is interested in subscribing to NYSE BQT and relies on a Redistributor to obtain market data products from the Exchange, that data recipient would need its Redistributor to redistribute NYSE BQT. Currently, Redistributors that redistribute some NYSE market data products do not necessarily also make NYSE BQT available. The Exchange believes that this proposed fee waiver for Redistributors of NYSE Trades would provide an incentive for Redistributors to make NYSE BQT available to their customers, which will increase the availability of NYSE BQT to a larger potential population of data recipients.[25]

Applicability of Proposed Rule Change

As noted above, the proposed rule change is designed to further reduce the overall cost of NYSE BQT by reducing specified fees applicable to the underlying market data products that comprise NYSE BQT. Prior to the BQT Fee Reduction Filing, the Exchange had only one subscriber to NYSE BQT. Today, the Exchange has seven subscribers, three of whom became customers as a direct result of the BQT Fee Reduction Filing and currently pay the reduced Per User Access Fee. The Exchange believes that the proposed rule changes would provide a further incentive for Redistributors to subscribe to NYSE BQT for purposes of providing external distribution of NYSE BQT to potential data recipients interested in the product.

Because the proposed rule change is targeted to potential Redistributors of NYSE BQT that do not currently subscribe to any NYSE market data products, the proposed changes to the availability of the NYSE BBO and NYSE Trades Per User Access Fees, together with the proposed changes on NYSE American and NYSE Arca, are narrowly tailored with that purpose in mind. Accordingly, these proposed fee changes are not designed for Redistributors that are existing customers of NYSE market data products or that engage in internal use of NYSE BQT. This proposed rule change would not result in any changes to the market data fees for NYSE BBO and NYSE Trades for such data subscribers.

The Exchange believes that there are at least three potential Redistributors that would meet the qualifications to be eligible for these proposed fee changes. The Exchange further believes that this proposed rule change has the potential to attract these three Redistributors as new Redistributors for NYSE BQT, as well as new NYSE BQT subscribers that would be subscribing to NYSE BBO and NYSE Trades for the first time.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[26] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[27] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Proposed Rule Change Is Reasonable

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [28]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system ''evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed'' and that the SEC wield its regulatory power ''in those situations where competition may not be sufficient,'' such as in the creation of a ''consolidated transactional reporting system.'' [29]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S.

corresponding proposed rule changes by NYSE American and NYSE Arca to similarly reduce the access fees to their BBO and Trades products for Redistributors, such Redistributors would be eligible for significantly lower access fees for NYSE BQT, from $6,250 per month to $850 per month ($250 + $200 + $200 + $200), a reduction of more than 86%.

[25] NYSE does not charge a Redistribution Fee for NYSE BBO.

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(4), (5).

[28] *See* Regulation NMS Adopting Release, 70 FR 37495, at 37499.

[29] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

national market system for trading equity securities.' '' [30]

More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[31]

1. The Proposed Fees Are Constrained by Significant Competitive Forces

a. Exchange Market Data Is Sold in a Competitive Market

In 2018, Charles M. Jones, the Robert W. Lear of Professor of Finance and Economics of the Columbia University School of Business, conducted an analysis of the market for equity market data in the United States. He canvassed the demand for both consolidated and exchange proprietary market data products and the uses to which those products were put by market participants, and reported his conclusions in a paper annexed hereto.[32] Among other things, Professor Jones concluded that:

- ''The market [for exchange market data] is characterized by robust competition: Exchanges compete with each other in selling proprietary market data products. They also compete with consolidated data feeds and with data provided by alternative trading systems ('ATSs'). Barriers to entry are very low, so existing exchanges must also take into account competition from new entrants, who generally try to build market share by offering their proprietary market data products for free for some period of time.'' [33]
- ''Although there are regulatory requirements for some market participants to use consolidated data products, there is no requirement for market participants to purchase any proprietary market data product for regulatory purposes.'' [34]
- ''There are a variety of data products, and consumers of equity market data choose among them based on their needs. Like most producers, exchanges offer a variety of market data products at different price levels. Advanced proprietary market data products provide greater value to those who subscribe. As in any other market, each potential subscriber takes the features and prices of available products into account in choosing what market data products to buy based on its business model.'' [35]
- ''Exchange equity market data fees are a small cost for the industry overall: The data demonstrates that total exchange market data revenues are orders of magnitude smaller than (i) broker-dealer commissions, (ii) investment bank earnings from equity trading, and (iii) revenues earned by third-party vendors.'' [36]
- ''For proprietary exchange data feeds, the main question is whether there is a competitive market for proprietary market data. More than 40 active exchanges and alternative trading systems compete vigorously in both the market for order flow and in the market for market data. The two are closely linked: An exchange needs to consider the negative impact on its order flow if it raises the price of its market data. Furthermore, new entrants have been frequent over the past 10 years or so, and these venues often give market data away for free, serving as a check on pricing by more established exchanges. These are all the standard hallmarks of a competitive market.'' [37]

Professor Jones' conclusions are consistent with the demonstration of the competitive constraints on the pricing of market data demonstrated by analysis of exchanges as platforms for market data and trading services, as shown below.[38]

b. Exchanges That Offer Market Data and Trading Services Function as Two-Sided Platforms

An exchange may demonstrate that its fees are constrained by competitive forces by showing that platform competition applies.

As the United States Supreme Court recognized in *Ohio* v. *American Express,* platforms are firms that act as intermediaries between two or more sets of agents, and typically the choices made on one side of the platform affect the results on the other side of the platform via externalities, or ''indirect network effects.'' [39] Externalities are linkages between the different ''sides'' of a platform such that one cannot understand pricing and competition for goods or services on one side of the platform in isolation; one must also account for the influence of the other side. As the Supreme Court explained:

> To ensure sufficient participation, two-sided platforms must be sensitive to the prices that they charge each side. . . . Raising the price on side A risks losing participation on that side, which decreases the value of the platform to side B. If the participants on side B leave due to this loss in value, then the platform has even less value to side A—risking a feedback loop of declining demand. . . . Two-sided platforms therefore must take these indirect network effects into account before making a change in price on either side.[40]

The Exchange and its affiliated exchanges have long maintained that they function as platforms between consumers of market data and consumers of trading services. Proving the existence of linkages between the two sides of this platform requires an in-depth economic analysis of both public data and confidential Exchange data about particular customers' trading activities and market data purchases. Exchanges, however, are prohibited from sharing details about these specific customer activities and purchases. For example, pursuant to Exchange Rule 7.41, transactions executed on the Exchange are processed anonymously.

The Exchange and its affiliated exchanges retained a third party expert, Marc Rysman, Professor of Economics Boston University, to analyze how platform economics applies to stock exchanges' sale of market data products and trading services, and to explain how this affects the assessment of competitive forces affecting the exchanges' data fees.[41] Professor Rysman was able to analyze exchange data that is not otherwise publicly available in a manner that is consistent with the exchanges' confidentiality obligations to customers. As shown in his paper, Professor Rysman surveyed the existing economic literature analyzing stock exchanges as platforms between market data and trading

[30] *Id.* at 535.

[31] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (''National IF Approval Order'') (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (''2008 ArcaBook Approval Order'').

[32] *See* Exhibit 3A, Charles M. Jones, *Understanding the Market for U.S. Equity Market Data,* August 31, 2018 (hereinafter ''Jones Paper'').

[33] Jones Paper at 2.

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *Id.* at 39–40.

[38] More recently, Professors Jonathan Brogaard and James Brugler also looked at the market for proprietary market data products and confirmed that it is competitive. The authors document that introducing fees for market data leads to lower market share, and identify informed traders as the most affected trader categories after fees are introduced. *See* Jonathan Brogaard and James Brugler, *Competition and Exchange Data Fees,* October 2, 2020 (Exhibit 3B).

[39] *Ohio* v. *American Express,* 138 S. Ct. 2274, 2280–81 (2018).

[40] *Id.* at 2281.

[41] *See* Exhibit 3C, Marc Rysman, *Stock Exchanges as Platforms for Data and Trading,* December 2, 2019 (hereinafter ''Rysman Paper''), ¶ 7.

activities, and explained the types of linkages between market data access and trading activities that must be present for an exchange to function as a platform. In addition, Professor Rysman undertook an empirical analysis of customers' trading activities within the NYSE group of exchanges in reaction to NYSE's introduction in 2015 of the NYSE Integrated Feed, a full order-by-order depth of book data product.[42]

Professor Rysman's analysis of this confidential firm-level data shows that firms that purchased the NYSE Integrated Feed market data product after its introduction were more likely to route orders to NYSE as opposed to one of the other NYSE-affiliated exchanges, such as NYSE Arca or NYSE American.[43] Moreover, Professor Rysman shows that the same is true for firms that did *not* subscribe to the NYSE Integrated Feed: The introduction of the NYSE Integrated Feed led to more trading on NYSE (as opposed to other NYSE-affiliated exchanges) by firms that did *not* subscribe to the NYSE Integrated Feed.[44] This is the sort of externality that is a key characteristic of a platform market.[45]

From this empirical evidence, Professor Rysman concludes:

- ''[D]ata is more valuable when it reflects more trading activity and more liquidity-providing orders. These linkages alone are enough to make platform economics necessary for understanding the pricing of market data.'' [46]
- ''[L]inkages running in the opposite direction, from data to trading, are also very likely to exist. This is because market data from an exchange reduces uncertainty about the likelihood, price, or timing of execution for an order on that exchange. This reduction in uncertainty makes trading on that exchange more attractive for traders that subscribe to that exchange's market data. Increased trading by data subscribers, in turn, makes trading on the exchange in question more attractive for traders that do not subscribe to the exchange's market data.'' [47]
- The ''mechanisms by which market data makes trading on an exchange more attractive for subscribers to market data . . . apply to a wide assortment of market data products, including BBO, order book, and full order-by-order depth of book data products at all exchanges.'' [48]
- ''[E]mpirical evidence confirms that stock exchanges are platforms for data and trading.'' [49]
- ''The platform nature of stock exchanges means that data fees cannot be analyzed in isolation, without accounting for the competitive dynamics in trading services.'' [50]
- ''Competition is properly understood as being between platforms (*i.e.,* stock exchanges) that balance the needs of consumers of data and traders.'' [51]
- ''Data fees, data use, trading fees, and order flow are all interrelated.'' [52]
- ''Competition for order flow can discipline the pricing of market data, and vice-versa.'' [53]
- ''As with platforms generally, overall competition between exchanges will limit their overall profitability, not margins on any particular side of the platform.'' [54]

c. Exchange Market Data Fees Are Constrained by the Availability of Substitute Platforms

Professor Rysman's conclusions that exchanges function as platforms for market data and transaction services mean that exchanges do not set fees for market data products without considering, and being constrained by, the effect the fees will have on the order-flow side of the platform. And as the D.C. Circuit recognized in *NetCoalition I,* ''[n]o one disputes that competition for order flow is fierce.'' [55] The court further noted that ''no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers,'' and that an exchange ''must compete vigorously for order flow to maintain its share of trading volume.'' [56]

As noted above, while Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [57] The Commission's Division of Trading and Markets has also recognized that with so many ''operating equities exchanges and dozens of ATSs, there is vigorous price competition among the U.S. equity markets and, as a result, [transaction] fees are tailored and frequently modified to attract particular types of order flow, some of which is highly fluid and price sensitive.'' [58] Indeed, today, equity trading is currently dispersed across 16 exchanges,[59] numerous alternative trading systems,[60] broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share.[61]

Further, low barriers to entry mean that new exchanges may, and do, rapidly and inexpensively enter the market and offer additional substitute platforms to compete with the Exchange.[62] For example, in 2020 alone, three new exchanges have entered the market: Long Term Stock Exchange (LTSE), which began operations as an exchange on August 28, 2020; [63] Members Exchange (MEMX), which began operations as an exchange on September 29, 2020; [64] and Miami

[42] *See* Securities Exchange Act Release Nos. 74128 (January 23, 2015), 80 FR 4951 (January 29, 2015) (SR–NYSE–2015–03) (Notice of filing and immediate effectiveness of proposed rule change to establish NYSE Integrated Feed) and 76485 (November 20, 2015), 80 FR 74158 (November 27, 2015) (SR–NYSE–2015–57) (Notice of filing and immediate effectiveness of proposed rule change to establish fees for the NYSE Integrated Feed).

[43] Rysman Paper ¶¶ 79–89.

[44] *Id.* ¶¶ 90–91.

[45] *Id.* ¶ 90.

[46] *Id.* ¶ 95.

[47] *Id.* ¶ 96.

[48] *Id.*

[49] *Id.* ¶ 97.

[50] *Id.* ¶ 98.

[51] *Id.*

[52] *Id.*

[53] *Id.*

[54] *Id.* ¶ 100.

[55] *NetCoalition I,* 615 F.3d at 544 (internal quotation omitted).

[56] *Id.*

[57] *See* Securities Exchange Act Release No. 61358, 75 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[58] Commission Division of Trading and Markets, Memorandum to EMSAC, dated October 20, 2015, available here: *https://www.sec.gov/spotlight/emsac/memo-maker-taker-fees-on-equities-exchanges.pdf.*

[59] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[60] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[61] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[62] *See* Jones Paper at 10–11.

[63] *See* LTSE Market Announcement: MA–2020–020, dated August 14, 2020, announcing LTSE production securities phase-in planned for August 28, available here: *https://assets.ctfassets.net/cchj2z2dcfyd/rnGvgggJUplaIk6N1xNA7/41926d3925a177d6455868090c46aeda/MA-2020-020__Production_Securities_Launching_August_28_-_Google_Docs.pdf* and LTSE Market Announcement: MA–2020–025, available here: *https://assets.ctfassets.net/cchj2z2dcfyd/52nIKwAuOraU1agaNY5j80/0d27ab0eb9b540c67a5e9f831f23f0ac/MA-2020-025.pdf.*

[64] As of October 29, 2020, MEMX is trading all NMS symbols but has not yet enabled NMS routing.

Continued

International Holdings (MIAX), which began operations of its first equities exchange on September 29, 2020.[65]

These low barriers enable existing exchange customers to disintermediate and start their own exchanges if they think the prices charged for exchange proprietary market data products are too high. This is precisely the rationale behind the creation of MEMX, which was formed by some of the largest and most well capitalized financial firms that are also Exchange customers (including Bank of America, BlackRock, Charles Schwab, Citadel, Citi, E*Trade, Fidelity, Goldman Sachs, J.P. Morgan, Jane Street, Morgan Stanley, TD Ameritrade, and others).[66]

For example, one of MEMX's founding principles is that exchange proprietary market data prices are too high, and that MEMX will benefit its members by offering ''[l]ower pricing on market data.'' [67] Nor is this a new phenomenon: Exchange customers formed BATS to compete with incumbent exchanges and once registered as an exchange in 2008, BATS did not initially charge for market data. The BATS venture was a financial success for its founders, first through recouping their investment in its initial public offering and then in the subsequent sale of BATS to Cboe, which now charges for market data from those exchanges. Notably, MEMX has some of the same founding broker-dealer customers, leading some to dub MEMX ''BATS 2.0.'' [68]

The fact that this cycle is viable and repeatable by entities that both trade on and compete with existing exchanges confirms that barriers to entry are low and that these markets are competitive and contestable.[69] And low barriers to entry act as a market check on high prices.[70]

Given Professor Rysman's conclusion that exchanges are platforms for market data and trading, this fierce competition for order flow on the trading side of the platform acts to constrain, or ''discipline,'' the pricing of market data on the other side of the platform.[71] And due to the ready availability of substitutes and the low cost to move order flow to those substitute trading venues, an exchange setting market data fees that are not at competitive levels would expect to quickly lose business to alternative platforms with more attractive pricing.[72] Although the various exchanges may differ in their strategies for pricing their market data products and their transaction fees for trades—with some offering market data for free along with higher trading costs, and others charging more for market data and comparatively less for trading—the fact that exchanges are platforms ensures that no exchange makes pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform.[73]

In sum, the fierce competition for order flow thus constrains any exchange from pricing its market data at a supracompetitive price, and constrains the Exchange in setting its fees at issue here.

The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute platforms offering market data products and trading. Such substitutes need not be identical, but only substantially similar to the product at hand.

More specifically, in reducing specified fees for the NYSE BBO and NYSE Trades market data products, the Exchange is constrained by the fact that, if its pricing across the platform is unattractive to customers, customers have their pick of an increasing number of alternative platforms to use instead of the Exchange. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The existence of numerous alternative platforms to the Exchange's platform ensures that the Exchange cannot set unreasonable market data fees without suffering the negative effects of that decision in the fiercely competitive market for trading order flow.

d. The Availability of Substitute Market Data Products Constrains Fees for NYSE BBO, NYSE Trades, and NYSE BQT

Even putting aside the facts that exchanges are platforms and that pricing decisions on the two sides of the platform are intertwined, the Exchange is constrained in setting the proposed market data fees by the availability of numerous substitute market data products. The Commission has been clear that substitute products need not be identical, but only substantially similar to the product at hand.[74]

The Exchange's NYSE BQT market data product is subject to significant competitive forces that constrain its pricing. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities

See https://info.memxtrading.com/trader-alert-20-10-memx-trading-symbols-update/.

[65] *See* MIAX Pearl Press release, dated September 29, 2020, available here: *https://www.miaxoptions.com/sites/default/files/alert-files/MIAX_Press_Release_09292020.pdf.*

[66] MEMX Home Page (''Founded by members and investors, MEMX aims to drive simplicity, efficiency, and competition in equity markets.''), available at *https://memx.com/.*

[67] MEMX home page, available at *https://memx.com/.*

[68] *See* ''MEMX turns up the heat on US stock exchanges,'' Financial Times, January 9, 2019, available at *https://www.ft.com/content/4908c8b0-1418-11e9-a581-4ff78404524e; see also* ''US equities exchanges: If you can't beat them, join them,'' Euromoney, February 13, 2019, available at *https://www.euromoney.com/article/b1d3tfby4p3y4v/us-equities-exchanges-if-you-cant-beat-them-join-them.*

[69] *United States* v. *SunGard Data Sys.,* 172 F. Supp. 2d 172, 186 (D.D.C. 2001) (recognizing that ''[a]s a matter of law, courts have generally recognized that when a customer can replace the services of an external product with an internally-created system, this captive output (*i.e.* the self-production of all or part of the relevant product) should be included in the same market.''). In *SunGard,* the court rejected the Antitrust Division's attempt to block SunGuard's acquisition of the disaster recovery assets of Comdisco on the basis that the acquisition would ''substantially lessen competition in the market for shared hotsite disaster recovery services,'' when the evidence showed that ''internal hotsites'' created by customers competed with the ''external shared hotsite business'' engaged in by the merging parties. *Id.* at 173–74, 187.

[70] *United States* v. *Baker Hughes,* 908 F.2d 981, 987 (1990) (''In the absence of significant barriers [to entry], a company probably cannot maintain supracompetitive pricing for any length of time.''); *see also* David S. Evans and Richard Schmalensee, Markets with Two-Sided Platforms, in 1 Issues In Competition Law and Policy 667, 685 (ABA Section of Antitrust Law 2008) (noting that exchange mergers in 2005 and 2006 were approved by competition authorities in part in reliance on planned and likely entry of other firms).

[71] Rysman Paper ¶ 98.

[72] *See* Jones Paper at 11.

[73] In the context of the fee proposal that led to the National IF Approval Order, *supra* note 32, one commenter contended that trading was not a platform with exchange proprietary market data, and that the exchanges' proprietary market data products were instead ''complements'' for which exchanges could charge supracompetitive prices. Professor Rysman debunked these contentions in an additional paper. *See* Marc Rysman, *Complements, Competition, and Exchange Proprietary Data Products,* August 13, 2020 (Exhibit 3D).

[74] For example, in the National IF Approval Order, the Commission recognized that for some customers, the best bid and offer information from consolidated data feeds may function as a substitute for the NYSE National Integrated Feed product, which contains order by order information. *See* National IF Approval Order, *supra* note 32, at 67397 [release p. 21] (''[I]nformation provided by NYSE National demonstrates that a number of executing broker-dealers do not subscribe to the NYSE National Integrated Feed and executing broker-dealers can otherwise obtain NYSE National best bid and offer information from the consolidated data feeds.'' (internal quotations omitted)).

markets. In the case of NYSE BQT, this product provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, which together account for approximately 22% of consolidated U.S. equities trading volume as of September 2020.[75] Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and are not intended to be used for order routing or trading decisions.

In addition to competing with proprietary data products from Nasdaq and Cboe, NYSE BQT also competes with the consolidated data feed. However, the Exchange does not claim that NYSE BQT is a substitute for consolidated data with respect to requirements under the Vendor Display Rule, which is Regulation NMS Rule 603(c).

The fact that this filing is proposing reductions in certain fees and fee waivers is itself confirmation of the inherently competitive nature of the market for the sale of proprietary market data. For example, in August 2019, Cboe filed proposed rule changes to reduce certain of its Cboe One Feed fees and noted that it attracted two additional customers because of the reduced fees.[76] More recently, Nasdaq filed a proposed rule change to lower the enterprise license fee for broker-dealers distributing Nasdaq Basic to internal Professional subscribers and the enterprise license fee for broker-dealers distributing Nasdaq Last Sale to Professional subscribers.[77]

The Exchange notes that NYSE BBO, NYSE Trades, and NYSE BQT are entirely optional. The Exchange is not required to make the proprietary data products that are the subject of this proposed rule change available or to offer any specific pricing alternatives to any customers, nor is any firm or investor required to purchase the Exchange's data products. Unlike some other data products (*e.g.,* the consolidated quotation and last-sale information feeds) that firms are required to purchase in order to fulfil regulatory obligations,[78] a customer's decision whether to purchase any of the Exchange's proprietary market data feeds is entirely discretionary. Most firms that choose to subscribe to the NYSE's proprietary market data feeds do so for the primary goals of using them to increase their revenues, reduce their expenses, and in some instances compete directly with the Exchange's trading services. Such firms are able to determine for themselves whether or not the products in question or any other similar products are attractively priced. If the NYSE market data feeds do not provide sufficient value to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use the products.[79]

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Refinitiv, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. This competitive constraint is precisely what is driving the proposed fee changes here, which are designed to attract new market data vendors, and through them new subscribers, to the NYSE BQT product. Currently, only four vendors subscribe to NYSE BQT, and each vendor has limited redistribution of NYSE BQT. No other vendors currently subscribe to NYSE BQT and likely will not unless their customers request it, and customers will not elect to pay the proposed fees unless such product can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Because of the availability of substitutes, an exchange that overprices its market data products stands a high risk that users may substitute another source of market data information for its own. Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing.

[75] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share/market/2019-10-31/.*

[76] *See* Securities Exchange Act Release Nos. 86667 (August 14, 2019) (SR–CboeBZX–2019–069); 86670 (August 14, 2019) (SR–CboeBYX–2019–012); 86676 (August 14, 2019) (SR–CboeEDGA–2019–013); and 86678 (August 14, 2019) (SR–CboeEDGX–2019–048) (Notices of filing and Immediate effectiveness of proposed rule change to reduce fees for the Cboe One Feed) (collectively ''Cboe One Fee Filings''). The Cboe One Fee Filings were in effect from August 1, 2019 until September 30, 2019, when the Commission suspended them and instituted proceedings to determine whether to approve or disapprove those proposals. *See, e.g.,* Securities Exchange Act Release No. 87164 (September 30, 2019), 84 FR 53208 (October 4, 2019) (SR–CboeBZX–2019–069). On October 1, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings on the basis that they had new customers subscribe as a result of the Cboe One Fee Filings, and therefore its fee proposal had increased competition for top-of-book market data. *See* Securities Exchange Act Release Nos. 87312 (October 15, 2019), 84 FR 56235 (October 21, 2019) (SR–CboeBZX–2019–086); 87305 (October 14, 2019), 84 FR 56210 (October 21, 2019) (SR–CboeBYX–2019–015); 87295 (October 11, 2019), 84 FR 55624 (October 17, 2019) (SR–CboeEDGX–2019–059); and 87294 (October 11, 2019), 84 FR 55638 (October 17, 2019) (SR–CboeEDGA–2019–015) (Notices of filing and immediate effectiveness of proposed rule changes to re-file the Small Retail Broker Distribution Program) (''Cboe One Fee Re-Filings''). On November 26, 2019, the Commission suspended the Cboe One Fee Re-Filings and instituted proceedings to determine whether to approve or disapprove those proposals. *See, e.g.,* Securities Exchange Act Release No. 87629 (November 26, 2019), 84 FR 66245 (December 3, 2019) (SR–CboeBZX–2019–086). On November 27, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings with one revision to the requirements for participating in the Small Retail Broker Distribution Program and additional information about the basis for the proposed fee changes. *See* Securities Exchange Act Release Nos. 87712 (December 10, 2019), 84 FR 68508 (December 16, 2019) (SR–CboeBZX–2019–101); 88713 (December 10, 2019), 84 FR 68530 (December 16, 2019) (SR–CboeBYX–2019–023); 87709 (December 10, 2019), 84 FR 68523 (December 16, 2019) (SR–CboeEDGA–2019–021); and 87711 (December 10, 2019), 84 FR 68501 (December 16, 2019) (SR–Cboe–EDGX–2019–071) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) (''Cboe One Third Fee Re-Filings''). On February 4, 2020, the Cboe equities exchanges withdrew the Cboe One Third Fee Re-Filings and, on the same date, refiled the Cboe One Fee Filings. *See* Securities Exchange Act Release Nos. 88221 (February 14, 2020), 85 FR 9904 (February 20, 2020) (SR–CboeBYX–2020–007); 88218 (February 14, 2020), 85 FR 9827 (February 20, 2020) (SR–CboeBZX–2020–014); 88220 (February 14, 2020), 85 FR 9912 (February 20, 2020) (SR–CboeEDGA–2020–004); and 88219 (February 14, 2020), 85 FR 9872 (February 20, 2020) (SR–CboeEDGX–2020–008) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) (''Cboe One Fourth Fee Re-Filings''). On April 15, 2020, the Cboe equities exchanges withdrew the Cboe One Fee Filings and the Cboe One Fee Re-Filings. Pursuant to the Cboe One Fourth Fee Re-Filings, the Small Retail Broker Distribution Program is currently in effect at the Cboe equities exchanges.

[77] *See* Securities Exchange Act Release No. 90177 (October 14, 2020), 85 FR 66620 (October 20, 2020) (SR–NASDAQ–2020–065) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Lower the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Basic to Internal Professional Subscribers as Set Forth in the Equity 7 Pricing Schedule, Section 147, and the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Last Sale to Professional Subscribers at Equity 7, Section 139).

[78] The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations. *See In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations,* Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.

[79] *See generally* Jones Paper at 8, 10–11.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The existence of numerous alternatives to the Exchange's platform and, more specifically, alternatives to the market data products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

2. The Proposed Fees Are Reasonable

The specific fees that the Exchange proposes for NYSE BBO and NYSE Trades are reasonable, for the following additional reasons.

Overall. This proposed fee change is a result of the competitive environment, as the Exchange seeks to decrease certain of its fees to attract Redistributors that do not currently subscribe to the NYSE BQT market data product. The Exchange is proposing the fee reductions at issue to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, and expanding the options available to firms making data purchasing decisions based on their business needs. The Exchange believes that this is consistent with the principles contained in Regulation NMS to ''promote the wide availability of market data and to allocate revenues to SROs that produce the most useful data for investors.'' [80]

Access Fee. By making the reduced Per User Access Fee available to Redistributors that subscribe only to the NYSE BBO and NYSE Trades data feeds and NYSE BQT and do not have any internal use of such products, and do not subscribe to any other products listed on the Fee Schedule, the Exchange believes that more Redistributors may choose to subscribe to these products, thereby expanding the distribution of this market data for the benefit of investors that participate in the national market system and increasing competition generally. The Exchange also believes that offering the Per User Access Fee to these Redistributors would expand the availability of NYSE BQT to potential data recipients that are interested in subscribing to NYSE BQT but do not have access to a Redistributor who subscribes to the data feeds.

The Exchange determined to make the reduced Per User Access Fee available to these Redistributors because it constitutes a substantial reduction of the current fee, with the intended purpose of increasing use of NYSE BQT by Redistributors that do not currently subscribe to any NYSE market data products. NYSE BQT has been in place since 2014 but has a very small number of subscribers. The Exchange believes that in order to compete with other indicative pricing products such as Nasdaq Basic and Cboe One Feed, it needs to provide a meaningful financial incentive for more Redistributors to choose to subscribe to NYSE BQT so that they can make it available to their customers. Accordingly, the proposed reduction to the access fees for NYSE BBO and NYSE Trades, together with the proposed reduction to the access fees for NYSE American BBO, NYSE American Trades, NYSE Arca BBO, and NYSE Arca Trades, is reasonable because the reductions will make NYSE BQT a more attractive offering for Redistributors that do not currently subscribe to any NYSE market data products and make it more competitive with Nasdaq Basic and Cboe One Feed. For example, the External Distribution Fee for Cboe One Feed is currently $5,000 (which is the sum of the External Distribution fees for the four exchange data products that are included in Cboe One Feed) plus a Data Consolidation Fee of $1,000, for a total of $6,000. Evidence of the competition among exchange groups for these products has previously been demonstrated via fee changes. For example, following the introduction of the Cboe One Feed, Nasdaq responded by reducing its fees for the Nasdaq Basic product.[81] With the proposed changes by the Exchange, NYSE Arca, and NYSE American, the Exchange is similarly seeking to compete by decreasing the total access fees for NYSE BQT from $6,250 to $850 for Redistributors that do not currently subscribe to any NYSE market data products and have customers that are interested in subscribing to NYSE BQT but cannot do so until their Redistributor also subscribes. This proposed rule change therefore demonstrates the existence of an effective, competitive market because this proposal resulted from a need to generate innovative approaches in response to competition from other exchanges that offer market data for a specific segment of market participants.

Redistribution Fees. Similarly, the proposed reduction to the NYSE Trades Redistribution Fee is reasonable because it is designed to provide an incentive for Redistributors to make NYSE BQT available so that data recipients can subscribe to NYSE BQT. The Exchange further believes that the proposed waiver of the NYSE Trades Redistribution Fee is reasonable because it is designed to compete with market data products offered by the Cboe family of equity exchanges.[82]

For all of the foregoing reasons, the Exchange believes that the proposed fees are reasonable.

The Proposed Fees Are Equitably Allocated

The Exchange believes the proposed fees for NYSE BBO and NYSE Trades are allocated fairly and equitably among the various categories of users of the feed, and any differences among categories of users are justified.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to access NYSE BBO and NYSE Trades for Redistributors that would be subscribing only to the NYSE BBO and NYSE Trades data feeds and would use these market data products for external distribution only, which the Exchange hopes will attract new Redistributor subscribers for its NYSE BQT market data product so that the product can be made available to prospective market data recipients. The Exchange is proposing the fee reductions to make the Exchange's fees more competitive

[80] *See* Regulation NMS Adopting Release, 70 FR 37495, at 37503.

[81] *See e.g.,* Securities Exchange Act Release No. 83751 (July 31, 2018), 83 FR 38428 (August 6, 2018) (SR–NASDAQ–2018–058) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Lower Fees and Administrative Costs for Distributors of Nasdaq Basic, Nasdaq Last Sale, NLS Plus and the Nasdaq Depth-of-Book Products Through a Consolidated Enterprise License). Nasdaq filed the proposed fee change to lower the Enterprise Fee for Nasdaq Basic and other market data products in response to the Enterprise Fee for the Cboe One Feed adopted by Cboe family of exchanges.

[82] *See, e.g.,* BZX Price List—U.S. Equities available at *http://www.nasdaqtrader.com/Trader.aspx?id=DPUSdata#db.* BZX charges $500 per month for internal distribution, and $2,500 per month for external distribution, of BZX Last Sale. BZX also charges $500 per month for internal distribution, and $2,500 per month for external distribution, of BZX Top. *See* Cboe BZX U.S. Equities Exchange Fee Schedule at *http://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions based on their business needs, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be subscribing only to the NYSE BBO and NYSE Trades data feeds and would use these market data products for external distribution only is equitable as it would apply equally to all data recipients that choose to subscribe to NYSE BBO or NYSE Trades for external distribution only and who do not subscribe to any other products listed on the Fee Schedule. Because NYSE BBO and NYSE Trades are optional products, any data recipient could choose to subscribe only to NYSE BBO or NYSE Trades to distribute externally and be eligible for the proposed reduced fee. The Exchange does not believe that it is inequitable that this proposed fee reduction would be available only to data recipients that subscribe only to NYSE BBO or NYSE Trades and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. For example, non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate order matching and execution platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. Although some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce the recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting end users. The Exchange believes that charging a different access fee for a Redistributor that is engaged solely in external distribution of only the NYSE BBO and NYSE Trades products is equitable because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

Redistribution Fees. The Exchange believes the proposed change to provide a waiver of the Redistribution Fee to a Redistributor that would be eligible for the Per User Access Fee because it only externally redistributes NYSE Trades to at least one data feed recipient is equitably allocated. The proposed change would apply equally to all Redistributors that are eligible for the Per User Access Fee and choose to externally redistribute the NYSE Trades product, and would serve as an incentive for Redistributors to make NYSE Trades more broadly available for use by both Professional and Non-Professional Users. This, in turn, could provide an incentive for Redistributors that do not currently subscribe to any NYSE market data products to subscribe to NYSE BQT and make it available to their customers.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE market data products are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to provide a financial incentive for Redistributors that do not currently subscribe to any NYSE market data products that decide to subscribe to NYSE BQT, which the Exchange hopes will attract more subscribers for its NYSE BQT market data product. The Exchange is proposing the fee reductions to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions based on their business needs, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be subscribing only to the NYSE BBO and NYSE Trades data feeds and would use these market data products for external distribution only is not unfairly discriminatory as it would apply equally to all Redistributors that choose to subscribe to NYSE BBO or NYSE Trades for external distribution only and who do not subscribe to any other products listed on the Fee Schedule. Because NYSE BBO and NYSE Trades are optional products, any data recipient could choose to subscribe only to NYSE BBO or NYSE Trades to distribute externally and be eligible for the proposed reduced fee. The Exchange does not believe that it is unfairly discriminatory that this proposed fee reduction would be available only to data recipients that subscribe only to NYSE BBO or NYSE Trades and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. For example, non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate order matching and execution platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. While some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce the recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting end users. The Exchange therefore believes that there is a meaningful distinction between internal use and redistribution of market data and that charging a different access fee to a Redistributor that is engaged solely in external distribution of only the NYSE BBO and NYSE Trades products is not unfairly discriminatory because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

Moreover, the Exchange does not believe that it is unfairly discriminatory to offer the Per User Access Fee only to those Redistributors that would subscribe only to the NYSE BBO and NYSE Trades data feeds and no other products on the Fee Schedule, and only for external distribution. The Exchange does not currently have any Redistributors that fit this description. This proposed rule change is designed to provide an incentive for Redistributors that do not currently subscribe to NYSE BQT or any other

products listed on the Fee Schedule, but have customers that are interested in subscribing to NYSE BQT, to subscribe to the NYSE BBO and NYSE Trades data feeds so that they can make NYSE BQT available to their customers. This fee incentive is not necessary for Redistributors that currently subscribe to the NYSE BBO and NYSE Trades data feeds because such Redistributors could already subscribe to NYSE BQT, but have chosen not to, and a reduction in their existing access fees would likely not result in such Redistributors choosing to subscribe to NYSE BQT.

Redistribution Fees. The Exchange believes the proposed change to provide a waiver of the Redistribution Fee to a Redistributor that would be eligible for the Per User Access Fee because it only externally redistributes NYSE Trades to at least one data recipient is not unfairly discriminatory. The proposed waiver would apply equally to all Redistributors that are eligible for the Per User Access Fee and choose to externally redistribute the NYSE Trades product, and would serve as an incentive for Redistributors that do not currently subscribe to any NYSE market data products to subscribe to NYSE Trades and then make NYSE BQT available to their customers.

For all of the foregoing reasons, the Exchange believes that the proposed fees are not unfairly discriminatory.

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. Indeed, as demonstrated above, the Exchange believes the proposed rule changes are pro-competitive.

Intramarket Competition. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the proposed fee schedule would apply to all subscribers of NYSE market data products, and customers may not only choose whether to subscribe to the products at all, but also may tailor their subscriptions to include only the products and uses that they deem suitable for their business needs. The Exchange also believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue market on competition. As shown above, to the extent that particular proposed fees apply to only a subset of subscribers, those distinctions are not unfairly discriminatory and do unfairly burden one set of customers over another.

Intermarket Competition. The Exchange believes that the proposed fees do not impose a burden on competition on other exchanges that is not necessary or appropriate; indeed, the Exchange believes the proposed fee changes would have the effect of increasing competition. As demonstrated above and in Professor Rysman's paper, exchanges are platforms for market data and trading. In setting the proposed fees, the Exchange is constrained by the availability of substitute platforms also offering market data products and trading, and low barriers to entry mean new exchange platforms are frequently introduced. The fact that exchanges are platforms ensures that no exchange can make pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform. In setting fees at issue here, the Exchange is constrained by the fact that, if its pricing across the platform is unattractive to customers, customers will have its pick of an increasing number of alternative platforms to use instead of the Exchange. Given this intense competition between platforms, no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

In addition, the Exchange believes that the proposed fees do not impose a burden on competition or on other exchanges that is not necessary or appropriate because of the availability of numerous substitute market data products. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. NYSE BQT provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, while Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and therefore, are reasonable substitutes for one another. Additionally, market data vendors are also able to offer close substitutes to NYSE BQT. Because market data users can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another source of market data information for its own. These competitive pressures ensure that no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [83] of the Act and subparagraph (f)(2) of Rule 19b–4 [84] 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) [85] 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–2020–91 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.

[83] 15 U.S.C. 78s(b)(3)(A).

[84] 17 CFR 240.19b–4(f)(2).

[85] 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR–NYSE–2020–91. 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–2020–91, and should be submitted on or before December 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[86]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25389 Filed 11–17–20; 8:45 am]

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[86] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–316, OMB Control No. 3235–0359]

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:
Form N–17f–1

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form N–17f–1 (17 CFR 274.219) is entitled ''Certificate of Accounting of Securities and Similar Investments of a Management Investment Company in the Custody of Members of National Securities Exchanges.'' The form serves as a cover sheet to the accountant's certificate that is required to be filed periodically with the Commission pursuant to rule 17f–1 (17 CFR 270.17f–1) under the Act, entitled ''Custody of Securities with Members of National Securities Exchanges,'' which sets forth the conditions under which a fund may place its assets in the custody of a member of a national securities exchange. Rule 17f–1 requires, among other things, that an independent public accountant verify the fund's assets at the end of every annual and semi-annual fiscal period, and at least one other time during the fiscal year as chosen by the independent accountant. Requiring an independent accountant to examine the fund's assets in the custody of a member of a national securities exchange assists Commission staff in its inspection program and helps to ensure that the fund assets are subject to proper auditing procedures. The accountant's certificate stating that it has made an examination, and describing the nature and the extent of the examination, must be attached to Form N–17f–1 and filed with the Commission promptly after each examination. The form facilitates the filing of the accountant's certificates, and increases the accessibility of the certificates to both Commission staff and interested investors.

Commission staff estimates that it takes: (i) 1 hour of clerical time to prepare and file Form N–17f–1; and (ii) 0.5 hour for the fund's chief compliance officer to review Form N–17f–1 prior to filing with the Commission, for a total of 1.5 hours. Each fund is required to make 3 filings annually, for a total annual burden per fund of approximately 4.5 hours.[1] Commission staff estimates that an average of 6 funds currently file Form N–17f–1 with the Commission 3 times each year, for a total of 18 responses annually.[2] The total annual hour burden for Form N–17f–1 is therefore estimated to be approximately 27 hours.[3]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Compliance with the collections of information required by Form N–17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange member. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The Commission requests written comments on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens 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.

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: November 12, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25356 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

[1] This estimate is based on the following calculation: (1.5 hours × 3 responses annually = 4.5 hours).

[2] This estimate is based on a review of Form N–17f–1 filings made with the Commission over the last three years.

[3] This estimate is based on the following calculations: (4.5 hours × 6 funds = 27 total hours).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90406; File No. SR–OCC–2020–014]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Adopt the OCC Third-Party Risk Management Framework and Retire the OCC Counterparty Credit Risk Management Framework

November 12, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 4, 2020, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by The Options Clearing Corporation (''OCC'') would adopt a Third-Party Risk Management Framework (''TPRMF'') and retire the Counterparty Credit Risk Management Policy (''CCRMP''). The TPRMF and CCRMP are included in Exhibit 5 of filing SR–OCC–2020–014. The TPRMF is being submitted in its entirety as new rule text. Additionally, attached as exhibits to filing SR–OCC–2020–014 are marked changes to OCC's rules that reference the CCRMP. These include the: Risk Management Framework Policy (Exhibit 5c to filing SR–OCC–2020–014); Liquidity Risk Management Framework (Exhibit 5d to filing SR–OCC–2020–014); Margin Policy (Exhibit 5e to filling SR–OCC–2020–014); and Collateral Risk Management Policy (Exhibit 5f to filing SR–OCC–2020–014). The proposed rule change does not require any changes to the text of OCC's By-Laws or Rules.

OCC has separately submitted certain internal procedures related to the TPRMF, which are included in this filing as Exhibits 3a–j to filing SR–OCC–2020–014, and for which OCC has requested confidential treatment. These Exhibits to filing SR–OCC–2020–014 are being provided as supplemental information to the filing and would not constitute part of OCC's rules, which have been provided in Exhibit 5 to filing SR–OCC–2020–014.

All capitalized terms that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Background

On September 28, 2016, the Commission adopted amendments to Rule 17Ad–22[4] and added new Rule 17Ab2–2[5] pursuant to Section 17A of the Securities Exchange Act of 1934 (''Exchange Act'')[6] and the Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'')[7] to establish enhanced standards for the operation and governance of those clearing agencies registered with the Commission that meet the definition of a ''covered clearing agency,'' as defined by Rule 17Ad–22(a)(5)[8] (collectively, the rules are herein referred to as ''CCA'' rules). The CCA rules require that covered clearing agencies, among other things:

> ''[E]stablish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [m]aintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . [i]ncludes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually.''[9]

OCC proposes to adopt the proposed TPRMF, which would replace the CCRMP and provide an overview of OCC's overall approach to Third-Party[10] risk management. The proposed TPRMF would identify the risks that pertain to OCC's Third-Party relationships and the actions taken by OCC at each stage of the relationship. OCC plans to make the proposed TPRMF publicly available on its website, which would provide transparency into OCC's approach to Third-Party risk management for interested market participants. Currently, the CCRMP includes information about risk management related to direct and indirect participants, Liquidity Providers, asset custodians, settlement banks, letter of credit issuers, investment counterparties, and financial market utilities (''FMU'') arising from its payment, clearing, and settlement processes. Under the proposed TPRMF, OCC would consolidate into one document its process for managing the risks associated with all Third-Party relationships across the entire lifecycle of their relationship with OCC. OCC believes the consolidation provides a more comprehensive and clear presentation of OCC's Third-Party risk management without requiring a reader to seek multiple sources.

Proposed Third-Party Risk Management Framework

The proposed TPRMF would state that as a central counterparty, OCC is exposed to risks arising from its Third-Party relationships. The proposed TPRMF would outline OCC's approach to identify, measure, monitor, and manage risks arising from Third-Party relationships including: Clearing Members; Clearing Banks, custodians, liquidity providers and investment counterparties (''Financial

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's website: *http://optionsclearing.com/about/publications/bylaws.jsp.*

[4] 17 CFR 240.17Ad–22.

[5] 17 CFR 240.17Ab2–2.

[6] 15 U.S.C. 78q–1.

[7] 12 U.S.C. 5461 et seq.

[8] 17 CFR 240.17Ad–22(a)(5).

[9] 17 CFR 240.17Ad–22(e)(3). OCC is defined as a covered clearing agency under the CCA rules, and therefore is subject to the requirements of the CCA rules, including Rule 17Ad–22(e)(3).

[10] Under the proposed TPRMF, a Third-Party would be defined as: A Clearing Member, Clearing Bank, custodians, liquidity provider, investment counterparty, financial market utility, Exchange, or vendor, which also has: (i) A relationship with OCC where products and/or services are exchanged; (ii) other ongoing business relationships with OCC; or (iii) responsibility for OCC associated records.

Institutions''); FMUs; [11] Exchanges; [12] and vendors.

The proposed TPRMF would be approved annually by the Risk Committee of OCC's Board (''Risk Committee'') and implemented by the OCC Management Committee (''MC'').

Risk Identification

The proposed TPRMF would state that OCC faces risks associated with its Third-Party relationships, including:

• *Financial risks* arising from a Clearing Member failing to meet its financial obligations to OCC including, but not limited to, obligations related to settlement, margin, and Clearing Fund. OCC may also face financial risks from other Third-Parties not meeting their obligations to OCC, including, but not limited to, facilitating daily settlements, providing timely access to collateral, honoring liquidity draw requests, or meeting obligations under an agreement.

• *Operational risks* arising from errors, disruptions, failures, or the inability of a Third-Party to fulfill its obligations to OCC. These risks include a disruption preventing OCC from completing trade processing, daily settlements, accessing collateral, or safeguarding OCC property, equipment, or personnel.

• *Information Technology and Security risks* arising when a Third-Party is unable to safeguard OCC data or maintain capabilities or services to support OCC's operations.

• *Legal and Regulatory risks* arising when a Third-Party fails to fulfill its obligations to OCC. These risks include exposure to potential litigation or regulatory compliance concerns.

Relationship Lifecycle

The proposed TPRMF would state that OCC's relationship lifecycle is designed to identify, measure, monitor, and manage Third-Party risks. The proposed TPRMF would state that the lifecycle consists of three stages.

• *On-Boarding*—The proposed TPRMF would state that Third-Parties are evaluated to determine whether they can engage in or expand a relationship with OCC. The proposed TPRMF would state that after evaluation, OCC completes any operational tasks necessary to activate the relationship.

• *Ongoing Monitoring*—The proposed TPRMF would state that Third-Parties are monitored for compliance with standards, the presence of additional or increased risks, and fulfillment of contractual obligations. The proposed TPRMF would state that ongoing monitoring is conducted based upon the nature of each relationship and is commensurate with the risks posed by the Third-Party.

• *Off-Boarding*—The proposed TPRMF would state that Third-Parties or OCC may elect to terminate a relationship. The proposed TPRMF would state that following the determination to terminate a relationship, OCC completes any operational tasks necessary to off-board the relationship.

The proposed TPRMF would state that Third-Parties that have multiple relationships with OCC are subject to the processes described below for each type of relationship. The proposed TPRMF would state that OCC recognizes that multiple relationships with a single entity may result in additional risks (as identified above) and incorporates this into its on-boarding and ongoing monitoring by reviewing affiliated relationships and their exposures at the Credit and Liquidity Risk Working Group (''CLRWG'').

The proposed TPRMF would state that as described below, risks identified throughout the relationship lifecycle are reported and escalated through associated working groups. The proposed TPRMF would state that working groups are cross-departmental and support OCC's business as assigned by the MC. The proposed TPRMF would state that each working group has a chair and designated MC member who are responsible to determine the matters to be escalated to the MC. The proposed TPRMF would state that the working groups identified in the TPRMF have defined decision-making authority, functions and responsibilities as defined in the associated working group procedure. The proposed TPRMF would state that the working groups that support the activities described in the TPRMF are: CLRWG, Exchange Working Group (''EWG''), and Vendor Risk Working Group (''VRWG'').

Third-Party Relationship Management

Clearing Members

The proposed TPRMF would state that OCC's membership standards are designed to be objective and risk-based, and are publicly disclosed in OCC's Rules and By-Laws. The proposed TPRMF would state that annually, Business Operations, Financial Risk Management (''FRM''), Treasury, and Third-Party Risk Management (''TPRM'') assess the adequacy of OCC's membership standards to address the management of risks presented by Clearing Members and the processes used to monitor initial and ongoing compliance with those standards, in accordance with the CLRWG Procedure. The proposed TPRMF would state that the review may contain recommendations to change the standards or monitoring processes. The proposed TPRMF would state that the results of the annual assessment are summarized for consecutive review and approval by the CLRWG, MC, Risk Committee, and if rule changes are necessary, Board.

On-Boarding: The proposed TPRMF would state that Business Operations, FRM, and TPRM complete a risk-based evaluation of Clearing Member applicants by evaluating their financial resources, operational capacity, personnel, and facilities against OCC's membership standards. The proposed TPRMF would state that FRM presents the results of this evaluation to the CLRWG and other key stakeholders as identified within Article V, Section 2 of OCC's By-Laws for review and approval.

Ongoing Monitoring: The proposed TPRMF would state that Clearing Members are monitored for ongoing compliance with OCC's membership standards. The proposed TPRMF would state that FRM, with support from Business Operations and TPRM, performs Watch Level reporting and ongoing monitoring of financial and operational risks. The proposed TPRMF would state that in addition to or in support of Watch Level reporting, Business Operations and FRM conduct the following processes to monitor Clearing Members:

• Determining an internal credit rating to identify creditworthiness;

• Performing periodic examinations to evaluate Clearing Member risk management policies, procedures, and practices; and

• Evaluating material risks related to customers of Clearing Members.

The proposed TPRMF would state that FRM provides informational Watch Level [13] reporting at meetings of the

[11] Under the proposed TPRMF, FMUs may include any person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among Financial Institutions or between Financial Institutions and the person.

[12] Under the proposed TPRMF, Exchange relationships may include options exchanges, futures markets, OTC Trade Sources or Loan Markets.

[13] Under the proposed TPRMF, Watch Level would be defined as: OCC assigns a level of required monitoring and reporting (*i.e.,* a ''Watch Level'') based on the identification of events or trends that might signal the deterioration of an entity's financial or operational ability to timely meet its future obligations to OCC. Watch Level is a tiered structure with financial (*e.g.,* capital and profitability), operational (*e.g.,* operational difficulties and late financial report submissions), and general business (*e.g.,* risk management issues

Continued

CLRWG, MC, and Risk Committee that summarizes the circumstances leading to violations of higher tier Watch Level criteria, additional risks observed, and any corrective measures taken by such Clearing Members.

The proposed TPRMF would state that should a Clearing Member approach or no longer meet minimum membership standards, protective measures may be imposed to limit or eliminate OCC's counterparty exposure. The proposed TPRMF would state that OCC maintains authorities in its Rules (Chapter III, Chapter VI Rule 608, and Chapter VII Rules 704 and 707) to act to protect OCC, given the facts and circumstances of the exposure presented by a Clearing Member, including but not limited to the imposition of additional monitoring, changes to margin requirements or composition, or suspension of some or all product and account approvals.

The proposed TPRMF would state that Business Operations, FRM, and TPRM provide reporting to the CLRWG, comprised of results from ongoing monitoring and management of Clearing Member financial, operational, legal, and regulatory risks and may raise matters for consideration to the CLRWG. The proposed TPRMF would state that the CLRWG may take action or escalate the matter to the MC, in accordance with the functions and responsibilities assigned to the CLRWG by the MC in the CLRWG Procedure.

Off-Boarding: The proposed TPRMF would state that a Clearing Member may voluntarily terminate its membership. The proposed TPRMF would state that upon request for termination, Business Operations and FRM ensure all financial exposures and operational capabilities are wound down and all obligations to OCC are satisfied before the relationship is terminated. The proposed TPRMF would state that in the event a Clearing Member is suspended by OCC, the suspension will be managed in accordance with the Default Management Policy.

Clearing Banks, Custodians, Liquidity Providers and Investment Counterparties

The proposed TPRMF would state that OCC maintains relationships with Financial Institutions that facilitate clearance and settlement activities, manage collateral, provide liquidity, and serve as investment counterparties.

On-Boarding: The proposed TPRMF would state that FRM and TPRM, with support as needed from Business Operations and Treasury, complete a risk-based evaluation of each entity by evaluating its financial resources and operational capacity. The proposed TPRMF would state that for custodians, the evaluation considers whether a relationship is structured to allow prompt access to OCC and Clearing Member assets and whether the custodian is a supervised and regulated institution that adheres to generally accepted accounting practices, maintains safekeeping procedures, and has controls that fully protect these assets. The proposed TPRMF would state that the results of the evaluation are presented to the CLRWG for review and recommendation for approval prior to presentation to the Chief Executive Officer or Chief Operating Officer, each of whom has the authority to approve such relationships.

Ongoing Monitoring: The proposed TPRMF would state that Business Operations, FRM, Treasury, and TPRM monitor the financial, operational, legal, and regulatory risks related to Financial Institution relationships. The proposed TPRMF would state that this monitoring includes Watch Level reporting, material agreement reviews, and ongoing monitoring of financial and operational risks. The proposed TPRMF would state that should Watch Level reporting detect potential issues or trends that might indicate the deterioration of a Financial Institution's ability to perform, protective measures that may be applied include, but are not limited to, modifying the business relationship or termination of the relationship.

The proposed TPRMF would state that Business Operations, FRM, Treasury, and TPRM provide reporting to the CLRWG, comprised of results from ongoing monitoring and management of a Financial Institution's financial, operational, legal, and regulatory risks and may raise matters for consideration to the CLRWG. The proposed TPRMF would state that the CLRWG may take action or escalate the matter to the MC, in accordance with the functions and responsibilities assigned to the CLRWG by the MC in the CLRWG Procedure.

Off-Boarding: The proposed TPRMF would state that a Financial Institution relationship may be terminated by the Financial Institution or OCC, pursuant to applicable agreements. The proposed TPRMF would state that the Chief Executive Officer or Chief Operating Officer, each of whom has the authority, must approve the termination of a Financial Institution relationship initiated by OCC. The proposed TPRMF would state that OCC may terminate a relationship if risks rise to an unacceptable level or a relationship is no longer required. Business Operations, FRM, Treasury, and Legal perform activities necessary to off-board the relationship in accordance with the agreement between OCC and the applicable Financial Institution.

Financial Market Utilities

The proposed TPRMF would state that FMUs provide OCC with a range of services, including custody, stock loan processing, cross-margin programs, and securities settlement.

On-Boarding: The proposed TPRMF would state that Business Operations, FRM, Legal, and TPRM consider an FMU's financial condition, operational capabilities, and any legal or regulatory risks associated with the relationship during the on-boarding process. The proposed TPRMF would state that the CLRWG reviews this evaluation and recommends approval prior to presentation to the Chief Executive Officer or Chief Operating Officer, each of whom has the authority to approve such relationships. The proposed TPRMF would state that on-boarding of the relationship may be subject to completion of any necessary agreements or regulatory filings.

Ongoing Monitoring: The proposed TPRMF would state that Business Operations, FRM and TPRM monitor the financial, operational, legal, and regulatory risks related to FMU relationships. The proposed TPRMF would state that this monitoring includes Watch Level reporting, material agreement reviews, and ongoing monitoring of financial and operational risks.

The proposed TPRMF would state that Business Operations, FRM, and TPRM provide reporting to the CLRWG, comprised of results from ongoing monitoring and management of an FMU's financial, operational, legal, and regulatory risks and may raise matters for consideration to the CLRWG. The proposed TPRMF would state that the CLRWG may take action or escalate the matter to the MC in accordance with the functions and responsibilities assigned to the CLRWG by the MC in the CLRWG Procedure.

Off-Boarding: The proposed TPRMF would state that an FMU relationship may be terminated by the FMU or OCC, pursuant to applicable agreements. The proposed TPRMF would state that the

and business restrictions by another SRO) criteria at each tier. Reaching the criteria at higher tier levels signals a more material event or trend has been detected and an entity may require heightened risk management. The CLRWG may recommend changes to Watch Level criteria to the MC, which maintains approval authority for recommended changes. FRM is responsible for implementing all approved Watch Level criteria changes.

Chief Executive Officer or Chief Operating Officer, each of whom has the authority, must approve the termination of an FMU relationship initiated by OCC. The proposed TPRMF would state that Business Operations, FRM, Legal, and TPRM coordinate the activities necessary to off-board the relationship, including, but not limited to, the wind down of all services with the FMU and, if necessary, revising OCC policies and procedures and filing rule changes with OCC's regulators after receiving the appropriate internal approvals.

Exchanges

The proposed TPRMF would state that OCC provides clearing services for Exchanges pursuant to applicable agreements (Exchange agreements are filed with OCC's regulators, as required). The proposed TPRMF would state that under these agreements, OCC clears products including equity and index options, commodity contracts, treasury futures, security futures, and stock loan transactions.

On-Boarding: The proposed TPRMF would state that Product and Business Development, in coordination with stakeholders which may include, but are not limited to, FRM, Business Operations, and TPRM, completes an evaluation of proposed Exchange relationships, including assessing whether an Exchange meets OCC's qualification requirements (as further described in the OCC By-Laws, Article VIIA—Equity Exchanges and Article VIIB—Non-Equity Exchanges). The proposed TPRMF would state that the due diligence performed for a proposed Exchange relationship is presented to the EWG for review and subsequently to the MC for approval. The proposed TPRMF would state that a summary of due diligence and on-boarding activities are presented to the Board for approval to launch.

Ongoing Monitoring: The proposed TPRMF would state that Business Operations and TPRM monitor the operational, legal and regulatory risks related to Exchange relationships. The proposed TPRMF would state that such relationships are monitored for connectivity and trade activity on an ongoing basis. The proposed TPRMF would state that Exchange monitoring allows for internal escalation to Production Support and the EWG, and externally to Exchanges.

The proposed TPRMF would state that Business Operations and TPRM conduct reviews to assess an Exchange's operational performance, overall financial condition, and ability to meet contractual obligations. The proposed TPRMF would state that to assess operational performance, Business Operations executes testing activities throughout the year aimed at mitigating operational risk, including the requirement that all Exchanges must participate in annual disaster recovery tests. The proposed TPRMF would state that in addition, Business Operations supports external testing with all Exchanges upon request or related to OCC system changes and enhancements. The proposed TPRMF would state that TPRM monitors the financial condition of Exchanges and evaluates whether an Exchange's operations meet its contractual obligations. The proposed TPRMF would state that Business Operations facilitates annual meetings with each Exchange that include an operational performance review, communicate updates about upcoming OCC system enhancements and changes, and seek feedback.

The proposed TPRMF would state that Business Operations and TPRM provide reporting to the EWG, comprised of results from ongoing monitoring and management of an Exchange's financial, operational, legal and regulatory risks and may raise matters for consideration to the EWG. The proposed TPRMF would state that the EWG may take action or escalate the matter to the MC, in accordance with the functions and responsibilities assigned to the EWG by the MC in the EWG Procedure.

Off-Boarding: The proposed TPRMF would state that an Exchange relationship may be terminated by the Exchange or OCC, pursuant to the applicable Exchange agreement. The proposed TPRMF would state that upon request for termination by the Exchange, Business Operations notifies the EWG and the MC to discuss any immediate actions such as limiting connectivity with the Exchange to mitigate exposure to operational, legal, or regulatory risks and to determine a termination date.

The proposed TPRMF would state that additionally, Business Operations leads the development of a deployment plan to identify the departments and required actions necessary to reduce any interim risk prior to termination, which may include performing clearing system maintenance and limiting or removing connectivity to the Exchange. The proposed TPRMF would state that Business Operations and other supporting departments coordinate and perform activities necessary to off-board the relationship in accordance with the applicable Exchange agreement.

Vendors

The proposed TPRMF would state that OCC engages and maintains vendor relationships for various purposes, including to accomplish its strategic objectives, outsource operational activities, and assist in compliance with legal and regulatory obligations. The proposed TPRMF would state that all Third-Party relationships that are not Clearing Members, Financial Institutions, FMUs, or Exchanges are treated as vendor relationships.

On-Boarding: The proposed TPRMF would state that during on-boarding, TPRM works with the business area requesting the vendor to assign a vendor relationship manager (''VRM'') who is obligated to manage the vendor relationship and execute the phases of the vendor relationship lifecycle. The proposed TPRMF would state that TPRM coordinates with the VRM to complete an evaluation of inherent risks posed by the vendor relationship. The proposed TPRMF would state that the evaluation of inherent risk results in a vendor risk tier which is used to inform the level of due diligence and frequency of monitoring for each vendor. The proposed TPRMF would state that due diligence is based on the inherent risks identified and may include a review of financial health, operational capacity, and other standards based on the relationship.

The proposed TPRMF would state that any potential risk issues identified are presented to the VRM and OCC's Legal Department for review. Potential risk issues may also be shared with the VRWG. The proposed TPRMF would state that an agreement that addresses control and business requirements is then negotiated with the vendor and executed by an OCC officer (an OCC Vice President or above).

Ongoing Monitoring: The proposed TPRMF would state that VRMs and TPRM monitor vendors to assess whether they are delivering services as required by applicable agreements. The proposed TPRMF would state that the scope and frequency of monitoring is determined by the vendor risk tier and inherent risks identified during on-boarding. The proposed TPRMF would state that monitoring may include reviewing a vendor's financial health, operational capacity, and other standards based on the relationship's inherent risks.

The proposed TPRMF would state that TPRM provides reporting to the VRWG, comprised of results from ongoing monitoring and management of a vendor's financial, operational, legal, and regulatory risks and may raise matters for consideration to the VRWG. The proposed TPRMF would state that the VRWG may take action (*e.g.,* additional monitoring, require

contingency plans, and additional contractual requirements) or escalate the matter to the MC, in accordance with the functions and responsibilities assigned to the VRWG by the MC in the Vendor Risk Working Group Procedure.

Off-Boarding: The proposed TPRMF would state that a vendor relationship may be terminated by the vendor or OCC, pursuant to applicable agreements. The proposed TPRMF would state that OCC mitigates exposure to operational, legal, and regulatory risk and performs activities necessary to off-board the relationship in accordance with the applicable vendor agreement.

Retirement of Counterparty Credit Risk Management Policy

OCC proposes retiring the CCRMP and replacing it with the proposed TPRMF. Currently, the CCRMP includes information about the Third-Party risk management lifecycle for Clearing Members, Financial Institutions, and FMUs. The information related to the Third-Party risk management lifecycle (on-boarding, ongoing monitoring and off-boarding) is now included in the proposed TPRMF. The proposed TPRMF also includes information about the Third-Party risk management lifecycle for Exchanges and Vendors, and OCC believes consolidating its Third-Party risk management lifecycle information into one publicly available document will provide for greater efficiency and transparency.

Additionally, by reconciling procedural information that was previously in the CCRMP with OCC's existing procedures, OCC was able to eliminate redundancy that could lead to confusion. In the proposed TPRMF, the Third-Party risk management lifecycle for each entity type is described. Detailed supporting procedural information that covers the various Third-Party relationships, lifecycle phases and governance steps is provided for in OCC's procedures.

The below table summarizes where the information currently in the CCRMP will reside following its proposed retirement. The left column lists the sections of the current CCRMP, the right column indicates where the information will be available under the proposed rule changes, including in the TPRMF and OCC Rules and By-Laws, as well as related OCC procedures. The CCRMP applies only to Clearing Members, Financial Institutions, and FMUs. Therefore, the below table only illustrates information related to those Third-Parties. A comprehensive statement about the Third-Party risk management lifecycle approach for Exchanges and Vendors has not been previously filed as a rule.

CCRMP Section	Location in proposed revised structure
I. Purpose	No longer necessary, as the CCRMP will be retired. TPRMF includes an Executive Summary appropriate to that document.
II.A. Identification of Credit Risk	TPRMF Section II: Risk Identification. In the TPRMF, OCC has defined the risks it faces to include financial risks, operational risks, information technology and security risks, and legal and regulatory risks. The credit risk areas identified in the CCRMP are covered in the broader OCC definition of financial risks in the TPRMF. The teams monitoring credit risk continue to monitor for each potential area of credit risk in accordance with OCC's procedures for each type of Third-Party relationship. OCC does not believe this reorganization changes the risks faced by OCC or the rights and obligations of OCC.
II.B. Counterparty Access and Participation.	TPRMF Section III: Relationship Lifecycle (On-Boarding). TPRMF Section IV: Third-Party Relationship Management (Clearing Members, Financial Institutions and FMUs). OCC By-Laws Articles IV and Article V, Section 1.03(e) and Section 2. OCC Rules Chapters II and III, Rule 604. The information about how OCC on-boards and monitors the ongoing compliance with standards of its Third-Party relationships is summarized in the proposed TPRMF relationship lifecycle overview and then in greater detail in the section related to each Third-Party type. The proposed TPRMF is organized by Third-Party type where the CCRMP is organized by relationship phase. While the sections have been reorganized and the drafting style has been changed from stating what OCC "shall" do to statements of what OCC does, the approach to risk management for Clearing Members, Financial Institutions and FMUs (*e.g.,* OCC's procedures require monitoring for a low probability of defaulting on obligations and assessing potential risks presented by indirect participants) during on-boarding and initial approval has not changed. Additionally, specific information related to the qualification and approval of Clearing Members and Financial Institutions is currently publicly available in the OCC Rules and By-Laws. OCC modified the approval process for FMUs to reflect its practices more accurately. While the Board approves any project that would require the on-boarding of an FMU, the final authority to implement the relationship is maintained by the CEO or COO, consistent with the approval structure OCC utilizes for Financial Institutions. The TPRMF is consistent with the management structure changes previously approved by the Commission.[14] Finally, on-boarding is done in accordance with OCC's procedures for each type of Third-Party relationship.
II.C. Measuring Counterparty Credit Risk.	TPRMF Section III: Relationship Lifecycle (Ongoing Monitoring). TPRMF Section IV: Third-Party Relationship Management (Clearing Members, Financial Institutions and FMUs).

CCRMP Section	Location in proposed revised structure
II.D. Monitoring and Managing Counterparty Credit Risk.	The information about how OCC monitors its established Third-Party relationships on an ongoing basis is summarized in the proposed TPRMF relationship lifecycle overview and then in greater detail in the section related to the on-going monitoring of each Third-Party type. The proposed TPRMF is organized by Third-Party type where the CCRMP is organized by relationship phase. While the sections have been reorganized and the drafting style has been changed from stating what OCC ''shall'' do to statements of what OCC does, the approach to risk management for Clearing Members, Financial Institutions and FMUs (*e.g.,* OCC's procedures require measurement and reporting of credit risk and other exposures) during ongoing monitoring has not changed. Additionally, the relationship lifecycle section in the proposed TPRMF states that OCC recognizes that multiple relationships with a single entity may result in concentration risk and incorporates this into its monitoring and reporting processes. Finally, ongoing monitoring is done in accordance with OCC's procedures for each type of Third-Party relationship.
II.E. Counterparty Credit Risk Termination.	TPRMF Section III: Relationship Lifecycle (Ongoing Monitoring). TPRMF Section IV: Third-Party Relationship Management (Clearing Members, Financial Institutions and FMUs). The information about how OCC monitors its established Third-Party relationships on an ongoing basis is summarized in the proposed TPRMF relationship lifecycle overview and then in greater detail in the section related to the on-going monitoring of each Third-Party type. The proposed TPRMF is organized by Third-Party type where the CCRMP is organized by relationship phase. While the sections have been reorganized and the drafting style has been changed from stating what OCC ''shall'' do to statements of what OCC does, the approach to risk management for Clearing Members (*e.g.,* OCC's procedures require monitoring for potential risks presented by indirect participants), Financial Institutions and FMUs during ongoing monitoring has not changed. In this section, OCC proposes to maintain the information related to OCC's program for Watch Level reporting but remove the specificity about what constitutes the Watch Level Tiers for Clearing Members, Financial Institutions and FMUs. OCC proposes to define the term Watch Level in the TPRMF and use it consistently throughout the on-going monitoring sections related to Clearing Members (and related indirect participants), Financial Institutions and FMUs. In each of these sections, the proposed TPRMF would describe OCC's utilization of Watch Level reporting and the steps that can be taken if a Third-Party is trending towards lower creditworthiness. OCC proposes to remove the information about what constitutes each Watch Level tier from its rules and maintain this information in its procedures. OCC believes this is appropriate as it would allow OCC to react to changing or unforeseen circumstances that may call for an update to its tiering immediately. Finally, ongoing monitoring is done in accordance with OCC's procedures for each type of Third-Party relationship. TPRMF Section III: Relationship Lifecycle (Off-Boarding). TPRMF Section IV: Third-Party Relationship Management (Clearing Members, Financial Institutions and FMUs). The information about how OCC off-boards Third-Party relationships is summarized in the proposed TPRMF relationship lifecycle overview and then in greater detail in the section related to the off-boarding of each Third-Party type. The proposed TPRMF is organized by entity type where the CCRMP is organized by relationship phase. While the sections have been reorganized and the drafting style has been changed from stating what OCC ''shall'' do to statements of what OCC does, the approach to risk management for Clearing Members, Financial Institutions and FMUs during off-boarding monitoring has not changed. Finally, off-boarding is done in accordance with OCC's procedures for each type of Third-Party relationship.

Proposed Corresponding Changes to Risk Management Framework Policy, Liquidity Risk Management Framework, Margin Policy, and Collateral Risk Management Policy

OCC additionally proposes to make changes to its rule filed documents that refer to the CCRMP. OCC believes this change will not substantively alter these documents, but rather refer readers to the TPRMF which will provide information related to the risk management of all OCC Third-Parties in one document.

OCC proposes to update all references to the CCRMP in the Risk Management Framework Policy to refer to the TPRMF. Additionally, OCC proposes to update references to the Third-Party Risk Management Policy [15] in the Risk Management Framework Policy to also refer to the TPRMF. Similarly, OCC proposes to update all references to the CCRMP and Third-Party Risk Management Policy in the Liquidity Risk Management Framework and Margin Policy to refer to the TPRMF. Finally, OCC proposes to update references to the CCRMP in the Collateral Risk Management Policy to refer to the TPRMF. In some cases, these proposed revisions include combining redundant references to the CCRMP in favor of one reference to the TPRMF. Lastly, OCC proposes to remove, rather than update, a paragraph in the Collateral Risk Management Policy related to cross-margining that refers to the CCRMP as it is redundant with the Margin Policy. OCC believes the redundant description does not need to remain in both rule filed documents.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act [16] requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and in general, to protect investors and the public interest. OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F)

[14] See Securities Exchange Act Release No. 34–85129 (February 13, 2019), 84 FR 5129 (February 13, 2019) (SR–OCC–2018–015).

[15] The OCC Third-Party Risk Management Policy has never been filed as a rule, and will be retired upon approval of the TPRMF.

[16] 15 U.S.C. 78q–1(b)(3)(F).

of the Act [17] because OCC's TPRMF details OCC's approach to managing risks associated with Third-Parties. Third-Parties are involved in OCC's clearance and settlement process in various ways and therefore present risks to OCC's ability to promptly and accurately clear and settle securities transactions. The following provides one example for each Third-Party. Clearing Members present risk if they are not able to meet their financial obligations to OCC; Financial Institutions present risk if they are unable to provide ready access to OCC's funds; FMUs present risk if they do not perform as expected under agreements with OCC; Exchanges present risk if inaccurate trade information is sent to OCC for processing; and vendors present risk as OCC outsources certain critical activities, such as gathering pricing data, to vendors. OCC manages these risks by scrutinizing the Third-Party before it can be on-boarded, monitoring the Third-Party throughout its relationship with OCC and carefully off-boarding the Third-Party should the relationship end. This organized and diligent approach to managing the risks associated with Third-Parties, promotes the prompt and accurate clearance and settlement of securities transactions by providing for the management of the risks associated Third-Party relationships. By identifying the risks associated with Third-Party relationships throughout their lifecycle in accordance with the TPRMF, OCC would aim to avoid or manage these risks in order to continue providing prompt and accurate clearance and settlement services.

Additionally, OCC's TPRMF provides for the safeguarding of securities and funds in the custody or control of OCC or for which it is responsible by detailing the program OCC uses to manage its relationships with Third-Parties and more specifically, Financial Institutions and FMUs. The TPRMF would outline the process OCC would use to manage the risks associated with Financial Institutions and FMUs. Financial Institutions and FMUs present settlement risk to OCC if they do not perform within expected settlement time frames. In addition, Financial Institutions and FMUs present custodial risk to OCC if they are unable to provide ready access to OCC's funds in their custody. Furthermore, Financial Institutions and FMUs present risk to OCC if they are unable to promptly recover from a business continuity or disaster recovery event in order to perform services for OCC. By following the risk management process proposed in the TPRMF, OCC believes it would identify the risks associated with Financial Institutions and FMUs and use this information to make decisions about whether to begin a relationship with the Third-Party and whether to maintain the on-going relationship.

OCC believes following the process contained in the proposed TPRMF will contribute to the safeguarding of securities and funds in its custody or control or for which OCC is responsible by documenting the process OCC aims to consistently follow in order to identify, measure, monitor and manage the risks associated with Third-Parties.

Rule 17Ad–22(e)(3) [18] requires, in part, that a covered clearing agency ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [m]aintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . [i]ncludes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually.'' OCC believes that the proposed rule change is also consistent with Rule 17Ad–22(e)(3) [19] because the proposed TPRMF would provide an overview of OCC's approach to Third-Party risk management. The proposed TPRMF would describe how OCC monitors the risks that arise in or are borne by OCC through a variety of risk assessment, risk reporting, evaluation and internal control management activities, consistent with the requirements of Rule 17Ad–22(e)(3).[20] Additionally, OCC believes that retiring the CCRMP in favor of the proposed TPRMF, which includes a more thorough description of the OCC Third-Party risk management lifecycle approach across entity types, will provide a more comprehensive, clear and transparent presentation of OCC's Third-Party risk management program. Currently, OCC's approach to Third-Party risk management for Clearing Members, Financial Institutions and FMUs is included the CCRMP, while OCC's approach to Third-Party risk management for Exchanges and Vendors is currently contained in policies and procedures that are not filed as rules. OCC believes that consolidating its approach to Third-Party risk management into one public document, will provide for greater consistency and a single source for information related to OCC's approach to the management of risks presented by Third-Parties. Additionally, OCC believes clarity and consistency will be gained by maintaining certain procedural information previously redundantly contained in the CCRMP and OCC's procedures only in OCC's procedures, rather than redundantly in the TPRMF. OCC believes resolving these redundancies will avoid potential confusion that could be created by any inconsistency between the TPRMF and OCC's procedures. Finally, OCC believes that making the proposed TPRMF publicly available will provide for greater transparency into OCC's policy to identify, measure, monitor, and manage risks related to Third-Party relationships.

Finally, OCC believes the proposed corresponding changes to the Risk Management Framework Policy, Liquidity Risk Management Framework, Margin Policy, and Collateral Risk Management Policy contribute to the maintenance required related to these policies as OCC aims to continue to maintain a sound risk management framework. While these edits do not change the substance or meaning of the Risk Management Framework Policy, Liquidity Risk Management Framework, Margin Policy, and Collateral Risk Management Policy, OCC believes accurate references within its policies and procedures support the maintenance of its risk management framework.

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act [21] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule changes would impact or impose any burden on competition. The proposed rule change clearly and transparently presents the framework OCC uses to identify, monitor and manage its risks related to Third-Parties in the TPRMF. In addition, by retiring the CCRMP, the TPRMF consolidates information related to Third-Parties in one document for

[17] *Id.*

[18] 17 CFR 240.17Ad–22(e)(3).

[19] *Id.*

[20] *Id.*

[21] 15 U.S.C. 78q–1(b)(3)(I).

ease of access by interested parties. In addition, OCC plans to make this document publicly available on its website, thereby providing additional transparency and equal availability to all market participants. While the proposed rule change would enhance OCC's framework of risk management documentation, these updates do not affect Clearing Members' access to OCC's services or impose any direct burdens on Clearing Members. Accordingly, the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impact or impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self- regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2020–014 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–OCC–2020–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules#rule-filings.*

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–OCC–2020–014 and should be submitted on or before December 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–25388 Filed 11–17–20; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 11255]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: "The Medici: Portraits & Politics, 1512–1570" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that one object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the exhibition ''The Medici: Portraits & Politics, 1512–1570'' at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary, Educational and Cultural Affairs, Department of State.

[FR Doc. 2020–25365 Filed 11–17–20; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice:11254]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: "Goya's Graphic Imagination" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the

exhibition ''Goya's Graphic Imagination'' at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary, Educational and Cultural Affairs, Department of State.

[FR Doc. 2020–25364 Filed 11–17–20; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusion Amendment: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Effective August 23, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $16 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative's determination included a decision to establish a product exclusion process. The U.S. Trade Representative initiated the exclusion process in September 2018, and stakeholders have submitted requests for the exclusion of specific products. This notice announces the U.S. Trade Representative's determination to make an amendment to a previously granted exclusion to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS).

DATES: The amendment announced in this notice is retroactive to the date the original exclusion was published and does not extend the period for the original exclusion. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsel Philip Butler or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including: 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47236 (September 18, 2018), 83 FR 47974 (September 21, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FR 37381 (July 31, 2019), 84 FR 49600 (September 20, 2019), 84 FR 52553 (October 2, 2019), 84 FR 69011 (December 17, 2019), 85 FR 10808 (February 25, 2020), 85 FR 28691 (May 13, 2020), 85 FR 43291 (July 16, 2020), and 85 FR 49414 (August 13, 2020).

Effective August 23, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 279 eight-digit subheadings of the HTSUS, with an approximate annual trade value of $16 billion. *See* 83 FR 40823. The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the $16 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for the product exclusions, and opened a public docket. *See* 83 FR 47236 (the September 18 notice).

In July 2019, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 84 FR 37381. The U.S. Trade Representative granted additional exclusions in September and October 2019, and February and July 2020. *See* 84 FR 49600; 84 FR 52553; 85 FR 10808; 85 FR 43291.

B. Technical Amendment to Exclusion

The Annex makes one technical amendment to U.S. note 20(o)(14) to subchapter III of chapter 99 of the HTSUS, as set out in the Annex of the notice published at 84 FR 37381 (July 31, 2019).

Annex

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on August 23, 2018, and through July 31, 2020, U.S. note 20(o)(14) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS), is modified by deleting ''Gasoline or liquid propane (LP)'' and inserting ''Gas (natural or liquid propane (LP))'' in lieu thereof.

Joseph Barloon,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2020–25403 Filed 11–17–20; 8:45 am]

BILLING CODE 3290–F1–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusion Extension Amendment: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Effective August 23, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $16 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative's determination included a decision to establish a product exclusion process. The U.S. Trade Representative initiated the exclusion process in September 2018, and stakeholders have submitted requests for the exclusion of specific products. The first set of exclusions was published in July 2019 and expired in July 2020. On April 30, 2020, the U.S. Trade Representative established a process for the public to comment on

whether to extend particular exclusions granted in July 2019 for up to 12 months. In July 2020, the U.S. Trade Representative determined to extend certain exclusions through December 31, 2020. This notice announces the U.S. Trade Representative's determination to make one technical amendment to a previously extended exclusion.

DATES: The amendment announced in this notice applies as of July 31, 2020, and continues through December 31, 2020. This notice does not further extend the period for product exclusion extensions. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsel Philip Butler or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including: 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47236 (September 18, 2018), 83 FR 47974 (September 21, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FR 37381 (July 31, 2019), 84 FR 49600 (September 20, 2019), 84 FR 52553 (October 2, 2019), 84 FR 69011 (December 17, 2019), 85 FR 10808 (February 25, 2020), 85 FR 28691 (May 13, 2020), 85 FR 43291 (July 16, 2020), and 85 FR 49414 (August 13, 2020).

Effective August 23, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 279 eight-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $16 billion. *See* 83 FR 40823. The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the $16 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for product exclusions, and opened a public docket. *See* 83 FR 47236 (the September 18 notice).

In July 2019, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 84 FR 37381. The U.S. Trade Representative granted additional exclusions in September and October 2019, and February and July 2020. *See* 84 FR 49600; 84 FR 52553; 85 FR 10808; 85 FR 43291.

On April 30, 2020, the U.S. Trade Representative invited the public to comment on whether to extend by up to 12 months, particular exclusions granted under the $16 billion action. *See* 85 FR 24076 (April 30, 2020). On July 30, 2020, the U.S. Trade Representative announced a determination to extend certain previously granted exclusions. *See* 85 FR 45949 (July 30, 2020).

B. Technical Amendment to Exclusion

The Annex makes one technical amendment to U.S. note 20(ggg)(4) to subchapter III of chapter 99 of the HTSUS, as set out in the Annex of the notice published at 85 FR 45949 (July 30, 2020).

Annex

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 31, 2020, and through December 31, 2020, U.S. note 20(ggg)(4) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS), is modified by deleting ''Gasoline or liquid propane (LP)'' and inserting ''Gas (natural or liquid propane (LP))'' in lieu thereof.

Joseph Barloon,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2020–25401 Filed 11–17–20; 8:45 am]

BILLING CODE 3290–F1–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0102; FMCSA–2014–0104; FMCSA–2016–0002; FMCSA–2017–0057; FMCSA–2017–0061; FMCSA–2018–0135]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for nine individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on November 30, 2020. The exemptions expire on November 30, 2022. Comments must be received on or before December 18, 2020.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0102, Docket No. FMCSA–2014–0104, Docket No. FMCSA–2016–0002, Docket No. FMCSA–2017–0057, Docket No. FMCSA–2017–0061, or Docket No. FMCSA–2018–0135 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. Docket No. FMCSA–2014–0102, Docket No. FMCSA–2014–

0104, Docket No. FMCSA–2016–0002, Docket No. FMCSA–2017–0057, Docket No. FMCSA–2017–0061, or Docket No. FMCSA–2018–0135), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2014–0102, FMCSA–2014–0104, FMCSA–2016–0002, FMCSA–2017–0057, FMCSA–2017–0061, or FMCSA–2018–0135, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2014–0102, FMCSA–2014–0104, FMCSA–2016–0002, FMCSA–2017–0057, FMCSA–2017–0061, or FMCSA–2018–0135, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The nine individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the nine applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The nine drivers in this notice remain in good standing with the Agency. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of November 30, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Michael Arwood (TN)
Christian DeNight (FL)
James Dignan (IL)
Michael Dohanish (OH)
Bruce Dunn (LA)
Scott Perdue (GA)
Albert Pizana (CA)
Adalberto Rodriguez (NY)
Michael Smith (CO)

The drivers were included in docket number FMCSA–2014–0102, FMCSA–2014–0104, FMCSA–2016–0002, FMCSA–2017–0057, FMCSA–2017–0061, or FMCSA–2018–0135. Their exemptions are applicable as of November 30, 2020, and will expire on November 30, 2022.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in § 390.5; (2) report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver is prohibited from operating a motorcoach or bus with passengers in

interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the nine exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41(b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020–25357 Filed 11–17–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–3637; FMCSA–2000–7006; FMCSA–2000–8203; FMCSA–2004–17195; FMCSA–2004–17984; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2010–0082; FMCSA–2010–0187; FMCSA–2011–0299; FMCSA–2012–0214; FMCSA–2012–0215; FMCSA–2012–0216; FMCSA–2012–0280; FMCSA–2013–0165; FMCSA–2013–0168; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2014–0006; FMCSA–2014–0007; FMCSA–2014–0010; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2015–0056; FMCSA–2016–0028; FMCSA–2016–0029; FMCSA–2016–0030; FMCSA–2016–0206; FMCSA–2016–0208; FMCSA–2016–0212; FMCSA–2018–0011; FMCSA–2018–0012; FMCSA–2018–0013; FMCSA–2018–0014; FMCSA–2018–0015; FMCSA–2018–0017; FMCSA–2018–0207]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 63 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirements in one eye.

DATES: Each group of renewed exemptions are applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before December 18, 2020.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–1998–3637, Docket No. FMCSA–2000–7006, Docket No. FMCSA–2000–8203, Docket No. FMCSA–2004–17195, Docket No. FMCSA–2004–17984, Docket No. FMCSA–2004–18885, Docket No. FMCSA–2008–0106, Docket No. FMCSA–2008–0174, Docket No. FMCSA–2010–0082, Docket No. FMCSA–2010–0187, Docket No. FMCSA–2011–0299, Docket No. FMCSA–2012–0214, Docket No. FMCSA–2012–0215, Docket No. FMCSA–2012–0216, Docket No. FMCSA–2012–0280, Docket No. FMCSA–2013–0165, Docket No. FMCSA–2013–0168, Docket No. FMCSA–2014–0003, Docket No. FMCSA–2014–0004, Docket No. FMCSA–2014–0005, Docket No. FMCSA–2014–0006, Docket No. FMCSA–2014–0007, Docket No. FMCSA–2014–0010, Docket No. FMCSA–2014–0296, Docket No. FMCSA–2014–0298, Docket No. FMCSA–2015–0056, Docket No. FMCSA–2016–0028, Docket No. FMCSA–2016–0029, Docket No. FMCSA–2016–0030, Docket No. FMCSA–2016–0206, Docket No. FMCSA–2016–0208, Docket No. FMCSA–2016–0212, Docket No. FMCSA–2018–0011, Docket No. FMCSA–2018–0012, Docket No. FMCSA–2018–0013, Docket No. FMCSA–2018–0014, Docket No. FMCSA–2018–0015, Docket No. FMCSA–2018–0017, or Docket No. FMCSA–2018–0207 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–1998–3637; FMCSA–2000–7006; FMCSA–2000–8203; FMCSA–2004–17195; FMCSA–2004–17984; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–

0174; FMCSA–2010–0082; FMCSA–2010–0187; FMCSA–2011–0299; FMCSA–2012–0214; FMCSA–2012–0215; FMCSA–2012–0216; FMCSA–2012–0280; FMCSA–2013–0165; FMCSA–2013–0168; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2014–0006; FMCSA–2014–0007; FMCSA–2014–0010; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2015–0056; FMCSA–2016–0028; FMCSA–2016–0029; FMCSA–2016–0030; FMCSA–2016–0206; FMCSA–2016–0208; FMCSA–2016–0212; FMCSA–2018–0011; FMCSA–2018–0012; FMCSA–2018–0013; FMCSA–2018–0014; FMCSA–2018–0015; FMCSA–2018–0017; FMCSA–2018–0207), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–1998–3637; FMCSA–2000–7006; FMCSA–2000–8203; FMCSA–2004–17195; FMCSA–2004–17984; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2010–0082; FMCSA–2010–0187; FMCSA–2011–0299; FMCSA–2012–0214; FMCSA–2012–0215; FMCSA–2012–0216; FMCSA–2012–0280; FMCSA–2013–0165; FMCSA–2013–0168; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2014–0006; FMCSA–2014–0007; FMCSA–2014–0010; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2015–0056; FMCSA–2016–0028; FMCSA–2016–0029; FMCSA–2016–0030; FMCSA–2016–0206; FMCSA–2016–0208; FMCSA–2016–0212; FMCSA–2018–0011; FMCSA–2018–0012; FMCSA–2018–0013; FMCSA–2018–0014; FMCSA–2018–0015; FMCSA–2018–0017; FMCSA–2018–0207, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–1998–3637; FMCSA–2000–7006; FMCSA–2000–8203; FMCSA–2004–17195; FMCSA–2004–17984; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2010–0082; FMCSA–2010–0187; FMCSA–2011–0299; FMCSA–2012–0214; FMCSA–2012–0215; FMCSA–2012–0216; FMCSA–2012–0280; FMCSA–2013–0165; FMCSA–2013–0168; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2014–0006; FMCSA–2014–0007; FMCSA–2014–0010; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2015–0056; FMCSA–2016–0028; FMCSA–2016–0029; FMCSA–2016–0030; FMCSA–2016–0206; FMCSA–2016–0208; FMCSA–2016–0212; FMCSA–2018–0011; FMCSA–2018–0012; FMCSA–2018–0013; FMCSA–2018–0014; FMCSA–2018–0015; FMCSA–2018–0017; FMCSA–2018–0207, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

The 63 individuals listed in this notice have requested renewal of their exemptions from the vision standard in § 391.41(b)(10), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 63 applicants has satisfied the renewal conditions for obtaining an exemption from the vision standard (see 63 FR 196; 63 FR 30285; 65 FR 20245; 65 FR 57230; 65 FR 66293; 67 FR 57266; 67 FR 67234; 69 FR 17263; 69 FR 31447; 69 FR 33997; 69 FR 52741; 69 FR 53493; 69 FR 61292; 69 FR 62741; 69 FR 62742; 71 FR 27033; 71 FR 53489; 71 FR 55820; 71 FR 62147; 71 FR 62148; 73 FR 28186; 73 FR 35194; 73 FR 35201; 73 FR 38499; 73 FR 48273; 73 FR 48275;

73 FR 51336; 73 FR 61925; 73 FR 65009; 73 FR 74565; 75 FR 25919; 75 FR 27623; 75 FR 27624; 75 FR 39729; 75 FR 44050; 75 FR 44051; 75 FR 47883; 75 FR 52061; 75 FR 57105; 75 FR 59327; 75 FR 63257; 75 FR 66423; 76 FR 73769; 77 FR 3547; 77 FR 29447; 77 FR 36338; 77 FR 46153; 77 FR 46793; 77 FR 52381; 77 FR 56261; 77 FR 56262; 77 FR 59245; 77 FR 60010; 77 FR 64583; 77 FR 64839; 77 FR 64841; 77 FR 65933; 77 FR 68199; 77 FR 75494; 78 FR 47818; 78 FR 63302; 78 FR 63307; 78 FR 77780; 79 FR 14331; 79 FR 14571; 79 FR 18392; 79 FR 27043; 79 FR 27681; 79 FR 28588; 79 FR 29498; 79 FR 35212; 79 FR 35220; 79 FR 38649; 79 FR 38659; 79 FR 46153; 79 FR 47175; 79 FR 51642; 79 FR 51643; 79 FR 53514; 79 FR 56097; 79 FR 56117; 79 FR 58856; 79 FR 59348; 79 FR 64001; 79 FR 68199; 79 FR 69985; 79 FR 72754; 79 FR 73393; 80 FR 8927; 80 FR 59225; 80 FR 59230; 80 FR 63839; 81 FR 1284; 81 FR 20433; 81 FR 28138; 81 FR 39320; 81 FR 40634; 81 FR 42054; 81 FR 45214; 81 FR 60115; 81 FR 66720; 81 FR 66722; 81 FR 66726; 81 FR 70253; 81 FR 71173; 81 FR 72642; 81 FR 80161; 81 FR 81230; 81 FR 86063; 81 FR 90050; 81 FR 91239; 81 FR 96180; 81 FR 96191; 81 FR 96196; 82 FR 12683; 83 FR 6922; 83 FR 24146; 83 FR 24585; 83 FR 28320; 83 FR 28325; 83 FR 28332; 83 FR 28335; 83 FR 33292; 83 FR 34661; 83 FR 34667; 83 FR 34677; 83 FR 40638; 83 FR 40648; 83 FR 45749; 83 FR 45750; 83 FR 53724; 83 FR 53732; 83 FR 54644; 83 FR 56137; 83 FR 56140; 83 FR 56902; 84 FR 2309; 84 FR 2326). They have submitted evidence showing that the vision in the better eye continues to meet the requirement specified at § 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of December and are discussed below. As of December 3, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 54 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (63 FR 196; 63 FR 30285; 65 FR 20245; 65 FR 57230; 65 FR 66293; 67 FR 57266; 67 FR 67234; 69 FR 17263; 69 FR 31447; 69 FR 33997; 69 FR 52741; 69 FR 53493; 69 FR 61292; 69 FR 62741; 69 FR 62742; 71 FR 27033; 71 FR 53489; 71 FR 55820; 71 FR 62147; 71 FR 62148; 73 FR 28186; 73 FR 35194; 73 FR 35201; 73 FR 38499; 73 FR 48273; 73 FR 48275; 73 FR 51336; 73 FR 61925; 73 FR 65009; 73 FR 74565; 75 FR 25919; 75 FR 27623; 75 FR 27624; 75 FR 39729; 75 FR 44050; 75 FR 44051; 75 FR 47883; 75 FR 52061; 75 FR 57105; 75 FR 59327; 75 FR 63257; 75 FR 66423; 76 FR 73769; 77 FR 3547; 77 FR 29447; 77 FR 36338; 77 FR 46153; 77 FR 46793; 77 FR 52381; 77 FR 56261; 77 FR 56262; 77 FR 59245; 77 FR 60010; 77 FR 64583; 77 FR 64841; 77 FR 65933; 77 FR 68199; 78 FR 47818; 78 FR 63302; 78 FR 63307; 78 FR 77780; 79 FR 14331; 79 FR 14571; 79 FR 18392; 79 FR 27043; 79 FR 27681; 79 FR 28588; 79 FR 29498; 79 FR 35212; 79 FR 35220; 79 FR 38649; 79 FR 38659; 79 FR 46153; 79 FR 47175; 79 FR 51642; 79 FR 51643; 79 FR 53514; 79 FR 56097; 79 FR 56117; 79 FR 58856; 79 FR 59348; 79 FR 64001; 79 FR 68199; 79 FR 72754; 80 FR 59225; 80 FR 59230; 80 FR 63839; 81 FR 1284; 81 FR 20433; 81 FR 28138; 81 FR 39320; 81 FR 40634; 81 FR 42054; 81 FR 45214; 81 FR 60115; 81 FR 66720; 81 FR 66722; 81 FR 66726; 81 FR 70253; 81 FR 71173; 81 FR 72642; 81 FR 80161; 81 FR 81230; 81 FR 90050; 81 FR 91239; 81 FR 96180; 81 FR 96191; 81 FR 96196; 83 FR 6922; 83 FR 24146; 83 FR 24585; 83 FR 28320; 83 FR 28325; 83 FR 28332; 83 FR 28335; 83 FR 33292; 83 FR 34661; 83 FR 34667; 83 FR 34677; 83 FR 40638; 83 FR 40648; 83 FR 45749; 83 FR 45750; 83 FR 53724; 83 FR 53732; 83 FR 54644; 83 FR 56137; 83 FR 56902; 84 FR 2326):

John W. Arnold (KY)
Paul J. Bannon (DE)
Keith D. Blackwell (TX)
Tracy L. Bowers (IA)
Gary O. Brady (WV)
Bryan Brockus (ID)
Thomas F. Caithamer (IL)
Kenneth C. Caldwell (NY)
Gerard J. Cormier (MA)
Layne C. Coscorrosa (WA)
Eric DeFrancesco (PA)
Michael C. Doheny (CT)
Homero Dominguez (TX)
Roger A. Duester (TX)
Todd C. Grider (IN)
Michael J. Haubert (WI)
Raymond E. Hogue (PA)
Matthew D. Hormann (MN)
Charles S. Huffman (KS)
Spencer B. Jacobs (TX)
Clarence H. Jacobsma (IN)
Larry Johnsonbaugh, Jr. (PA)
Theodore Kirby (MD)
Kelly R. Knopf, Sr. (SC)
Eric M. Kohrs (IL)
Richard A. Kolodziejczyk (CT)
Sherell J. Landry (TX)
Timothy D. Lundvall (NE)
Matthew J. Mantooth (KY)
Brian D. McClanahan (IL)
David G. Meyers (NY)
Ross A. Miceli II (PA)
James J. Monticello (IN)
Aaron F. Naylor (PA)
James M. O'Brien (ME)
Billy R. Oguynn (AL)
Richard A. Peterson (OR)
Jamey D. Reed (TX)
Charles O. Rhodes (FL)
Juan A. Rodriguez (CT)
Gordon G. Roth (KS)
Terry L. Rubendall (PA)
Daniel W. Schafer (PA)
Klifford N. Siemens (KS)
Chad M. Smith (IA)
Eric D. Smith (GA)
Daniel W. Toppings (WV)
Bart M. Valiante (CT)
James W. Van Ryswyk (IA)
John T. White, Jr. (NC)
Hubert Whittenburg (MO)
John D. Woods (MI)
Aaron E. Wright (MI)
James C. Wright (MN)

The drivers were included in docket numbers FMCSA–1998–3637; FMCSA–2000–7006; FMCSA–2000–8203; FMCSA–2004–17195; FMCSA–2004–17984; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2010–0082; FMCSA–2010–0187; FMCSA–2011–0299; FMCSA–2012–0214; FMCSA–2012–0215; FMCSA–2012–0216; FMCSA–2013–0165; FMCSA–2013–0168; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2014–0005; FMCSA–2014–0006; FMCSA–2014–0007; FMCSA–2014–0010; FMCSA–2014–0296; FMCSA–2015–0056; FMCSA–2016–0028; FMCSA–2016–0029; FMCSA–2016–0030; FMCSA–2016–0206; FMCSA–2016–0208; FMCSA–2018–0011; FMCSA–2018–0012; FMCSA–2018–0013; FMCSA–2018–0014; FMCSA–2018–0015; FMCSA–2018–0017. Their exemptions are applicable as of December 3, 2020, and will expire on December 3, 2022.

As of December 10, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following four individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (83 FR 56140; 84 FR 2309):

Alejandro R. Almaguer (FL)
Abdallah A. Alserhan (IL)
Denis Cuzimencov (NC)
Steven M. Huddleston (NM)

The drivers were included in docket number FMCSA–2018–0207. Their

exemptions are applicable as of December 10, 2020, and will expire on December 10, 2022.

As of December 20, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (77 FR 64839; 77 FR 75494; 79 FR 73393; 81 FR 96180; 84 FR 2326):

Noah E. Bowen (OH); and Emin Toric (GA)

The drivers were included in docket number FMCSA–2012–0280. Their exemptions are applicable as of December 20, 2020, and will expire on December 20, 2022.

As of December 25, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (79 FR 69985; 80 FR 8927; 81 FR 96180; 84 FR 2326):

Thurman T. Clayton (LA); and Tig G. Cornell (ID)

The drivers were included in docket number FMCSA–2014–0298. Their exemptions are applicable as of December 25, 2020, and will expire on December 25, 2022.

As of December 30, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (81 FR 86063; 82 FR 12683; 84 FR 2326):

Michal Golebiowski (IL)

The driver was included in docket number FMCSA–2016–0212. Their exemption is applicable as of December 30, 2020, and will expire on December 30, 2022.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must undergo an annual physical examination (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a certified medical examiner (ME), as defined by § 390.5, who attests that the driver is otherwise physically qualified under § 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the ME at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file or keep a copy of his/her driver's qualification if he/her is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 63 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the vision requirement in 391.41(b)(10), subject to the requirements cited above. In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020–25358 Filed 11–17–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0648]

Agency Information Collection Activity Under OMB Review: Foreign Medical Program (FMP) Registration Form and Claim Cover Sheet

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0648.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 421–1354 or email *danny.green2@va.gov* Please refer to ''OMB Control No. 2900–0648'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Foreign Medical Program (FMP) Registration Form and Claim Cover Sheet (VA Forms 10–7959f–1, 10–7959f–2)

OMB Control Number: 2900–0648.

Type of Review: Reinstatement without change of a previously approved collection.

Abstract: The Foreign Medical Program (FMP) is a federal health benefits program for Veterans, which is administered by the Department of Veterans Affairs (VA) Veterans Health Administration (VHA). The FMP is a Fee for Service (indemnity plan) program and provides reimbursement for VA adjudicated service-connected conditions. Title 38 CFR 17.35 states that VA will provide coverage for the Veteran's service-connected disability when the Veteran is residing or traveling overseas. Title 38 CFR 17.125(c) states that requests for consideration of claim reimbursement from approved health care providers and Veterans are to be mailed to VHA Health Administration Center.

VA currently collects information for FMP reimbursement through an OMB approved collection under 2900–0648, using VA Form 10–7959f–1, Foreign Medical Program (FMP) Registration Form, and VA Form 10–7959f–2, Foreign Medical Program Claim Cover Sheet. This collection of information is necessary to continue to reimburse Veterans or providers under the FMP.

a. VA Form 10–7959f–1 will collect information used to register into the FMP those Veterans with service-connected disabilities who are living or traveling overseas.

b. VA Form 10–7959f–2 will collect information to streamline the FMP claims submission process for claimants or providers, while also reducing the

time spent by VA on processing FMP claims. The cover sheet will explain to foreign providers and Veterans the basic information required for the processing and payment of claims.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 85 FR 82 on April 28, 2020, pages 23603 and 23604.

VA Form 10–7959f–1

Affected Public: Individuals and households.

Estimated Annual Burden: 111 hours.

Estimated Average Burden per Respondent: 4 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 1,660.

VA Form 10–7959f–2

Affected Public: Individuals or households; private sector.

Estimated Annual Burden: 3,652 hours.

Estimated Average Burden per Respondent: 11 minutes.

Frequency of Response: 12 times annually.

Estimated Number of Respondents: 1,660.

By direction of the Secretary.

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs.

[FR Doc. 2020–25404 Filed 11–17–20; 8:45 am]

BILLING CODE 8320–01–P

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Federal Register

Vol. 85, No. 223

Wednesday, November 18, 2020

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