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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Chapter I

Temporary Extension of Applicability of Regulations Governing Conduct on Federal Property

AGENCY: Office of the Secretary, DHS.

ACTION: Notification of temporary extension of the applicability of regulations.

SUMMARY: The Secretary of Homeland Security, pursuant to the Homeland Security Act of 2002, has temporarily extended the applicability and enforcement of certain regulations governing conduct on Federal property that is under the administrative jurisdiction and control of U.S. Customs and Border Protection (CBP) along the southwest border. This temporary administrative extension enables DHS to protect and secure Federal property along the southwest border within the control of CBP's San Diego Field Office, Tucson Field Office, Laredo Field Office and El Paso Field Office, and to carry out DHS's statutory obligations to protect and secure the nation's borders. The Federal property subject to this notice is limited to the specific geographic area within the administrative control of CBP along the length of the U.S. border with Mexico.

DATES: Pursuant to 40 U.S.C. 1315(d), the extension began on November 17, 2018 and will continue until May 31, 2019.

FOR FURTHER INFORMATION CONTACT: Joshua A. Vayer, 703–235–6082, *joshua.s.vayer@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 1706 of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (Nov. 25, 2002), as codified at 40 U.S.C. 1315, the Secretary of Homeland Security is responsible for protecting the buildings, grounds, and property owned, occupied, or secured by the Federal government (including any agency, instrumentality, or wholly owned or mixed ownership corporation thereof) and the persons on the property. To carry out this mandate, the Department is authorized to enforce the applicable Federal regulations for the protection of persons and property set forth in 41 CFR part 102–74, subpart C.[1] These regulations govern conduct on Federal property and set forth the relevant criminal penalties. Although these regulations apply to all property under the authority of the General Services Administration and to all person entering in or on such property,[2] the Secretary of Homeland Security is authorized pursuant to 40 U.S.C. 1315(d)(2)(A) to extend the applicability of these regulations to any property owned or occupied by the Federal government and to enforce them on such property.

Temporary Administrative Extension of Applicability of Regulations Governing Conduct on Federal Property Under the Administrative Jurisdiction and Control of U.S. Customs and Border Protection Along the Southwest Border

Throughout October and November 2018, a large group of Central American migrants is traveling as part of a caravan toward the Southwest Border of the United States. Acts of violence against immigration security services have been reported. As part of Department-wide efforts to mitigate security challenges which may arise as the migrants approach the Southwest Border of the United States, including the possibility of access to Federal property by unauthorized individuals, planning for an appropriate response is warranted. Specifically, this action will afford Federal law enforcement officers a wide range of enforcement tools to enforce Federal rules pertaining to individuals' conduct on the Federal property. The affected Federal property is along the Southwest Border of the United States and within the control of CBP's San Diego Field Office, Tucson Field Office, Laredo Field Office, and El Paso Field Office including but not limited to ports of entry, access roads, barriers, parking structures, and buildings temporarily erected to support processing of the large group of migrants. The Federal property that is subject to this notice is limited to the specific geographic area within the U.S. Border with Mexico. Specifically, I temporarily extended the applicability, allowing the enforcement, of the regulations in 41 CFR part 102–74, subpart C, for the protection and administration of property owned or occupied by the Federal Government and persons on the above-specified property along the Southwest Border of the United States.

The regulations in 41 CFR part 102–74, subpart C, will remain applicable and enforceable at these locations along the Southwest Border of the United States for six months after the date of my signature of this notice.

Dated: November 17, 2018.

Kirstjen M. Nielsen,

Secretary of Homeland Security.

[FR Doc. 2018–26812 Filed 12–11–18; 8:45 am]

BILLING CODE 9110–9P–P

[1] Although these regulations were issued prior to the Homeland Security Act, per section 1512 of the Act, these regulations remain the relevant regulations for purposes of the protection and administration of property owned or occupied by the Federal government.

[2] *See* 41 CFR 102–74.365.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 215, 220, and 226

[FNS–2017–0021]

RIN 0584–AE53

Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule.

SUMMARY: This final rule will codify, with some extensions, three menu planning flexibilities temporarily established by the interim final rule of the same title published November 30, 2017. First, it will broaden the milk options in the National School Lunch Program and School Breakfast Program by allowing local operators to permanently offer flavored, low-fat milk. For consistency across nutrition programs, it will also allow flavored, low-fat milk in the Special Milk Program for Children and in the Child

and Adult Care Food Program for participants ages 6 and older. Second, this final rule will require that half of the weekly grains in the school lunch and breakfast menu be whole grain-rich, thus ending the need for the exemption process. Third, it will provide schools in the lunch and breakfast programs more time for gradual sodium reduction by retaining Sodium Target 1 through the end of school year (SY) 2023–2024, continuing to Target 2 in SY 2024–2025, and eliminating the Final Target that would have gone into effect in SY 2022–2023. By codifying these changes, USDA acknowledges the persistent menu planning challenges experienced by some schools, and affirms its commitment to give schools more control over food service decisions and greater ability to offer wholesome and appealing meals that reflect local preferences.

DATES: This rule is effective February 11, 2019.

FOR FURTHER INFORMATION CONTACT: Tina Namian, Chief, School Programs Branch, Policy and Program Development Division, Food and Nutrition Service, telephone: 703–305–2590.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule will increase flexibility in the Child Nutrition Program requirements related to milk, grains, and sodium effective SY 2019–2020, which begins July 1, 2019. This rule is the culmination of the rulemaking process initiated by the Department of Agriculture (USDA) following the Secretary's May 1, 2017, Proclamation affirming USDA's commitment to assist schools in overcoming operational challenges related to the school meals regulations implemented in 2012.

In 2012, USDA updated the National School Lunch (NSLP) and School Breakfast Program (SBP) meal requirements to reflect the latest Dietary Guidelines for Americans, as required by the Richard B. Russell National School Lunch Act in Section 9(a)(4), 42 U.S.C. 1758(a)(4). The implementing regulations [1] increased the availability of fruits, vegetables, whole grains, and fat-free and low-fat milk in school meals; required sodium and saturated fat limits, and zero *trans*-fat in the weekly school menu; and established calorie ranges intended to meet part of the age-appropriate calorie needs of children. The updated requirements were largely based on recommendations issued by the Health and Medicine Division of The National Academies of Sciences, Engineering, and Medicine (formerly, the Institute of Medicine).

With regard to the milk, grains, and sodium requirements, the regulations implemented in 2012:

- Allowed flavoring only in fat-free milk in the NSLP and SBP;
- Required that half of the grains offered in the NSLP be whole grain-rich in SY 2012–2013 and one year later in the SBP; and required that effective SY 2014–2015, all grains offered in both programs be whole grain-rich (meaning the grain product contains at least 50 percent whole grains and the remaining grain content of the product must be enriched); and
- Required schools participating in the NSLP and SBP to gradually reduce the sodium content of meals offered on average over the school week by meeting progressively lower sodium targets over a 10-year period.

Before and after the regulations were implemented in 2012, USDA offered guidance, technical assistance resources, and tailored training programs for Program operators in collaboration with the Institute for Child Nutrition (formerly, National Food Service Management Institute). Program advocates, the food industry, and other stakeholders also collaborated with USDA in different ways to assist operators with implementation. This enabled many operators to adopt most of the changes to the NSLP and SBP meal patterns. Child nutrition and public health advocates who submitted public comments noted that children's eating habits are improving and student participation in the school meal programs is increasing in many school districts. USDA acknowledges the significant efforts and progress these schools have achieved. However, the changes are only truly successful when all of America's school children eat and enjoy the school meals.

While some Program operators have had great success in implementing the updated nutrition standards in a way that encourages healthy eating and participation, some school meal programs require additional flexibility and support from USDA to meet this goal. USDA continues to hear from Program operators about persistent challenges with the milk, grains, and sodium requirements. The challenges identified by operators include decreased student participation and/or meal consumption, difficulties preparing whole grain-rich food items, and limited ability to offer appealing meals with lower sodium content.

The Secretary of Agriculture acknowledged these challenges in the May 1, 2017, Proclamation and committed to working with stakeholders to ensure that the milk, grains, and sodium requirements are practical and result in wholesome and appealing meals. Subsequently, and consistent with the Consolidated Appropriations Act, 2017 (Pub. L. 115–31), USDA issued policy guidance (SP 32–2017, May 22, 2017, *School Meal Flexibilities for School Year 2017–2018*) providing milk, whole grains, and sodium flexibilities for SY 2017–2018 while taking steps to formulate regulatory relief in these areas. USDA's policy guidance was followed by the interim final rule *Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements* (82 FR 56703, November 30, 2017), which established regulations that extend school meal flexibilities through SY 2018–2019 and apply the flavored milk flexibility to the Special Milk Program for Children (SMP) and the Child and Adult Care Food Program (CACFP) for participants age 6 and older in SY 2018–2019 only. As a result, the regulations applicable in SY 2018–2019 provide relief in three specific areas while retaining other essential meal requirements (*e.g.,* fruit and vegetable quantities, fat restrictions, and calorie ranges) that contribute to wholesome meals. In brief, for SY 2018–2019, the regulations:

- Provide NSLP and SBP operators the option to offer flavored low-fat (1 percent fat) milk with the meal and as a beverage for sale during the school day, and apply the flexibility in the SMP and CACFP for participants age 6 and older;
- Extend the State agencies' option to allow individual school food authorities to include grains that are not whole grain-rich in the weekly NSLP and SBP menus; and
- Retain Sodium Target 1 in the NSLP and SBP.

As discussed in the interim final rule preamble (82 FR 56703, November 30, 2017), there have been numerous administrative and legislative actions over the last few years to provide flexibility to schools with regard to the whole grain-rich and sodium requirements.[2] The interim final rule extended the flexibilities already allowed through policy guidance (SP 32–2017, May 22, 2017, *School Meal Flexibilities for School Year 2017–2018)* and previous appropriations legislation

[1] Final rule *Nutrition Standards in the National School Lunch and School Breakfast Programs* (77 FR 4088, January 26, 2012).

[2] See discussion in the interim final rule *Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements* (82 FR 56703, November 30, 2017).

(Pub. L. 112–55, Pub. L. 113–235, Pub. L. 114–113, Pub. L. 115–31, and Pub. L. 115–56). In addition, the interim final rule allowed milk flexibility, without the need to demonstrate hardship, in all Child Nutrition Programs. Furthermore, the rule asked the public to submit comments on the long-term availability of the three meal flexibilities.

As a key part of USDA's regulatory reform agenda, this final rule seeks to ensure that school meals regulations work for all operators, while reflecting the recommendations of the Dietary Guidelines for Americans, as Section 9(a)(4), 42 U.S.C. 1758(a)(4) requires. All participating children will continue to have access to fruit, an array of vegetables, whole grains, and fat-free and low-fat milk, and school meals will continue to provide appropriate calorie ranges, limited saturated fat, and no added trans-fat. The targeted modifications in this final rule, effective July 1, 2019 (SY 2019–2020), apply only to the milk, whole grain-rich, and sodium requirements. This rule demonstrates USDA's commitment to alleviate regulatory burdens, provides school nutrition professionals the flexibility and predictability they repeatedly request to successfully operate the Child Nutrition Programs, and ensures that Program regulations are practical for all local providers. This rule will help Program operators provide wholesome and appealing meals that reflect the Dietary Guidelines and meet the needs and preferences of their communities. It is important to note that schools are not required to change their menus and can choose whether or not to use the flexibilities this rule provides.

The public comments that helped inform this final rule are discussed next.

II. Overview of Public Comments and USDA Response

USDA appreciates the significant public interest in the interim final rule *Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements* (82 FR 56703, November 30, 2017). During the 60-day comment period (November 30, 2017—January 29, 2018), USDA received a total of 86,247 comments, including 53 non-germane comments and 3 duplicates. All comments, except the non-germane and duplicate comments, are posted online at *www.regulations.gov.* See docket FNS–2017–0021, *Child Nutrition: Flexibilities for Milk, Whole Grains, and Sodium Requirements.*

USDA worked in collaboration with a data analysis company to code and analyze the public comments using a commercial web-based software product and obtained data showing support for or opposition to each meal flexibility. The Summary of Public Comments report is available under the Supporting Documentation tab in docket FNS–2017–0021.

The vast majority of the total public submissions were form letters. There were 16 form letter campaigns, which comprised 84,453 form letter copies. These comments were submitted by individuals participating in letter campaigns organized primarily by MomsRising, the American Heart Association Sodium Reduction Initiative, Salud America!, and the Union of Concerned Scientists. These form letters were mostly from parents and other individuals urging USDA to retain strong nutrition requirements for school meals.

In addition to the form letter copies, there were 1,738 unique submissions that provided substantive comments on issues specific to the three menu planning flexibilities and were therefore very useful in informing the development of this final rule. These unique comments, which included the master letter for each of the form letter campaigns, reflected a wide range of opinions—support, opposition, and mixed comments on each of the flexibilities. These comments were submitted by individuals, school district personnel, students, healthcare professionals, parents/guardians, dietitians/nutritionists, policy advocacy organizations, professional associations, State agency directors, trade/industry associations, nutrition/anti-hunger advocates, school nutrition advocacy organizations, academics/researchers, and the food industry. For example, stakeholders that submitted unique comments include: the School Nutrition Association, State agencies, School Superintendents Association, Council of Great City Schools, American Public Health Association, American Heart Association, Center for Science in the Public Interest, MomsRising, Robert Wood Johnson Foundation, Pew Charitable Trusts, Food Research & Action Center, American Commodity Distribution Association, Grocery Manufacturers Association, General Mills, and Mars, Incorporated.

The following tables show tallies of the total and unique comments received for each of the meal flexibilities addressed in the interim final rule:

MILK FLEXIBILITY

Commenter position	Count of milk comments received	Percent of all comments received (86,247)	Count of unique milk comments	Percent of unique milk comments (181)
Support	36	Less than 1	36	19.9
Oppose	5,441	6	84	46.4
Mixed	69	Less than 1	61	33.7
Milk Submissions	5,546	6	181	100

WHOLE GRAIN-RICH FLEXIBILITY

Commenter position	Count of grains comments received	Percent of all comments received (86,247)	Count of unique grains comments	Percent of unique grain comments (217)
Support	43	Less than 1	43	19.8
Oppose	83,767	97	122	56.2
Mixed	523	Less than 1	52	24.0
Grains Submissions	84,333	98	217	100

SODIUM FLEXIBILITY

Commenter position	Count of sodium comments received	Percent of all comments received (86,247)	Count of unique sodium comments	Percent of unique sodium comments (229)
Support	550	Less than 1	79	34.5
Oppose	83,152	96	132	57.6
Mixed	18	Less than 1	18	7.9
Sodium Submissions	83,720	97	229	100

In general, commenters in favor of the flexibilities argued that these provide more menu planning options for schools and thus enhance their ability to offer wholesome and appealing meals. They stated that the flexibilities will lead to increased meal consumption and better health outcomes for students. The School Nutrition Association, representing 57,000 members, urged USDA to adopt a permanent solution to operational challenges rather than temporary rules and annual waivers.

Commenters opposed to the flexibilities argued that these are not needed because most schools report being in compliance with the meal patterns, and the flexibilities could restrain schools' progress in increasing whole grains and reducing sodium intake. Many expressed interest in retaining the meal patterns as implemented in 2012, and stated their concern about children's continued access to wholesome school meals and the need to help children develop positive dietary habits for life.

In addition to specific comments about the milk, whole grain-rich, and sodium flexibilities, commenters provided general feedback on the interim final rule. The following table shows tallies of the general comments received in support of and against the meal flexibilities addressed in the interim final rule. Many of the opposing comments were submitted as part of the form letter campaigns described above:

GENERAL FEEDBACK ON MILK, WHOLE GRAIN-RICH, AND SODIUM FLEXIBILITIES

Themes	Count of comments received	Percent of all comments received (86,247)
General Support		
Positive health impacts for children	20	Less than 1.
Increase meal consumption and decrease food waste	90	Less than 1.
Relieve industry of meal pattern compliance challenges (e.g. product development)	4	Less than 1.
Reduce compliance burden for Program operators	20	Less than 1.
Other general support	60	Less than 1.
General Opposition		
Negative health impacts for children	6,830	8.
Negative impacts on children's ability to access healthy meals	1,190	1.4.
Flexibilities are not needed (e.g. widespread compliance with existing standards)	83,080	96.
Inconsistent with Dietary Guidelines for Americans	260	Less than 1.
Other general opposition	290	Less than 1.

After careful consideration of all stakeholders' comments, USDA believes that school nutrition operators have made the case that this final rule's targeted regulatory flexibility is practical and necessary for efficient Program operation. The targeted regulatory flexibility will improve student participation without a detrimental effect on the overall quality of the meals offered to children. Some commenters opposed to the flexibilities voiced concerns about the potential impact of the flexibilities on various segments of the student population. USDA is addressing these concerns separately in the Civil Rights Impact Analysis, which is available under the Supporting Documentation tab in docket FNS–2017–0021.

The following is a high-level summary of the flexibilities as stated in the interim final rule (82 FR 56703, November 30, 2017), the key concerns and arguments expressed by commenters, and USDA's response. Miscellaneous comments regarding food quantities, meal costs, calorie limits, and other topics unrelated to the flexibilities in the interim final rule are not discussed in this preamble, but are included in the Summary of Public Comments report.

Prior to publication of the interim final rule, USDA received 580 postcards expressing opposition to the flexibilities as stated in the Secretary's May 1, 2017, Proclamation. These postcards were not submitted in response to the interim final rule and, therefore, were not included in the comment analysis or as part of the public record for this rulemaking. They would not, in any event, alter the agency's final conclusions herein.

Milk Flexibility

In SY 2018–2019, the interim final rule:

- Allows schools to offer flavored, low-fat milk in the NSLP (including as a beverage for sale during the school day) and the SBP (7 CFR 210.10(d)(1)(i); 7 CFR 210.11(m)(1)(ii), (m)(2)(ii) and (m)(3)(ii); and 7 CFR 220.8(d));
- Allows flavored, low-fat milk in the Special Milk Program for Children

(SMP) for children ages 6 and older (7 CFR 215.7a(a)(3)); and

• Allows flavored, low-fat milk in the Child and Adult Care Food Program (CACFP) for children ages 6 and older and adults (7 CFR 226.20(a)(1)(iii) and (iv); and 7 CFR 226.20(c)(1), (2) and (3)).

Comments in Support

Commenters in support of the milk flexibility included individuals, a school nutrition organization, State agencies, food manufacturers, and trade associations. Supporters generally expressed concern related to the decline in children's milk consumption. They argued that allowing flavored, low-fat milk will provide schools more menu planning options, promote students' milk consumption, and lead to better health outcomes.

A nutritionist, healthcare professional, and food manufacturer stated that allowing flavored, low-fat milk will increase milk consumption and result in greater intake of essential nutrients such as vitamin D, magnesium, and calcium. A healthcare professional and members of academia stated that the minor increase in calories from flavored, low-fat milk could be offset with appropriate menu planning. A dairy trade association asserted that the net increase in calories between fat-free and low-fat, flavored milk is small due to progress made by dairy processors in reducing the calories in flavored milk. According to the commenter, milk processors have reduced the calorie and added sugar content of flavored milk between SY 2006–2007 and SY 2015–2016 by more than 9 grams per serving (or 55 percent) in chocolate milk produced for the school market.

A State agency suggested that the flexibility should be offered across all Federal Child Nutrition Programs for consistency. A few commenters offered suggestions unrelated to the milk flexibility, such as allowing schools to offer non-dairy milk options, and eliminating all fat limits on fluid milk offered in schools.

Comments in Opposition

Commenters opposed to the milk flexibility included parents and individuals, public health practitioners, and nutrition advocates. These commenters generally expressed health concerns related to added sugar in flavored milk. They argued that offering flavored, low-fat milk contradicts expert nutrition recommendations and could lead to increased sugar, fat, and calorie intake by children in the near and long term. They argued that schools offering flavored, low-fat milk may have to offer less food to offset the extra calories associated with this option, and said that school meals with flavored low-fat milk could exceed the weekly calorie ranges while offering no additional nutritional benefit. Others stated that the milk flexibility is unnecessary because students seem to accept unflavored, low-fat milk and unflavored/flavored, fat-free milk.

Several commenters argued that the milk flexibility as stated in the interim final rule is inconsistent with congressional intent because it does not require school districts to demonstrate a reduction in student milk consumption or an increase in school milk waste, which is specified in Section 747(c) of the Consolidated Appropriations Act, 2017.

A policy advocacy organization argued that, because milk is consumed so frequently by children, restricting flavor to fat-free milk helps decrease the amount of saturated fat in children's diets. The commenter also commended USDA for continuing to prohibit flavored milk for children under six years old.

A few individuals and public advocacy organizations also opposed allowing flavored, low-fat milk as a competitive beverage for sale in schools. They stated that, because schools are largely prohibited from selling most sugar-sweetened beverages on campus during the school day, there is no longer a need to offer flavored milk as an appealing option relative to other beverages with higher sugar content.

Mixed Response

A few commenters expressed conditional support or opposition, or offered suggestions for improving the interim final rule. For example, a State agency in favor of the milk flexibility recommended that USDA include a requirement that at least one type of unflavored milk be available at the meal service.

Several commenters opposed to the milk flexibility recommended that if USDA allows flavored, low-fat milk, a calorie limit of no more than 130 calories per 8 ounce serving should be established, consistent with the Robert Wood Johnson's Healthy Eating Research Healthier Beverage Guidelines. A few individuals and school district personnel suggested that USDA allow reduced fat (2%) milk or whole milk for health reasons rather than provide flexibility to offer flavored, low-fat or non-fat milk.

USDA Response

Beginning SY 2019–2020, this final rule will provide NSLP and SBP operators with the option to offer flavored, low-fat milk and require that unflavored milk be offered at each meal service. For consistency, the flavored, low-fat milk option will be extended to beverages for sale during the school day, and will also apply in the SMP and CACFP for participants ages 6 and older. We recognize that regulatory consistency across programs, a long-time practice at USDA, facilitates program administration and operation at the State and local levels, fosters customer support, and meets customers' expectations. The Summer Food Service Program (SFSP) currently allows flavored, low-fat milk with summer meals so this rule makes no change to milk service in the SFSP.

By broadening the flavored milk choices in the Child Nutrition Programs, USDA seeks to remove regulatory restrictions that may hinder milk consumption. USDA's decision to expand the milk choices is based on stakeholders' concerns over decreasing milk consumption in the U.S. population. Data from USDA's Economic Research Service shows a decrease in fluid milk consumption from 197 pounds per person in 2000 to 154 pounds per person in 2016.[3] Chobani, General Mills, and the Grocery Manufacturers Association cited this data in their comments. Commenters suggested that allowing flavored low-fat milk, a popular item among children, could help improve children's consumption of milk, an important source of calcium, vitamin D (for products fortified with vitamin D), and potassium. Further, commenters such as the National Milk Producers Federation and the International Dairy Foods Association noted that milk processors have significantly reduced the calorie and sugar content of flavored milk in recent years. Commenters noted that flavoring and a moderate amount of sweetener increases palatability, without compromising the positive nutritional impacts of milk consumption.

For operational efficiency, operators will be allowed to serve flavored low-fat milk without the need to demonstrate hardship. This will relieve schools from submitting written justification and evidence (*e.g.,* meal count records, photos, etc.) to the State agency to demonstrate financial hardship, such as a drop in meal counts or an increase in food waste. USDA is removing this operational burden for State and local

[3] U.S. Department of Agriculture Economic Research Service. Dairy products: Per capita consumption, United States (Annual). September 2017. Available at *https://www.ers.usda.gov/data-products/dairy-data/.*

operators to streamline procedures given the interest in this milk option. For SY 2017–2018, a total of 578 school food authorities (about 3 percent of all school food authorities operating the school meal programs) submitted flavored, low-fat milk exemption requests based on hardship, and State agencies approved 562 of those requests.

Eliminating the need to demonstrate hardship is consistent with the underlying statutory authority. The provision cited by commenters, Section 747(c) of the Consolidated Appropriations Act, 2017, expires with the 2017–2018 school year, whereas this rule is effective with the 2019–2020 school year. Further, under section 9(a)(2) of the National School Lunch Act, students must be provided with a variety of fluid milk and milk may be flavored or unflavored; there is no statutory requirement to demonstrate hardship in order to serve low-fat, flavored milk.

A comment from a State agency recommended that the milk flexibility include the requirement that operators offer unflavored milk at each meal service, in addition to any flavored milk offered. USDA agrees with this recommendation. Therefore, upon implementation of this rule, NSLP and SBP operators that choose to offer flavored milk must also offer unflavored milk (fat-free or low-fat) at the same meal service. This requirement will ensure that milk variety in the NSLP and SBP is not limited to flavored milk choices. It is expected to help schools that choose to offer flavored milk in their menus stay within the weekly dietary specifications. USDA believes that most schools would continue to offer unflavored milk at each meal service to meet parents' expectations, even if offering unflavored milk was not a requirement.

USDA recognizes the importance of having unflavored milk as a choice for students at each lunch and breakfast service. Many comments from parents, public health practitioners, and nutrition advocates voiced concerns over added sugars in the school meals and expressed a strong interest in retaining children's access to unflavored milk. We are aware that parents may want their children to drink unflavored milk at lunch and breakfast (*e.g.,* with breakfast cereal). In addition, many State agencies have promoted unflavored milk in the NSLP and SBP as every edition of the Dietary Guidelines for Americans since 1980 has recommended reducing sugar intake. We note that the requirement to ensure that unflavored milk is available on the school menu will not apply in the NSLP afterschool snack service, the SMP, or the CACFP consistent with existing Program requirements. These meal services do not have a requirement to offer a variety of fluid milk as they are smaller in size and resources than the lunch and breakfast services.

Some commenters recommended calorie limits for individual servings of flavored, low-fat milk (no more than 130 calories per 8 ounce serving). Since the NSLP and SBP calorie limits apply to the meals offered on average over the school week, this final rule will not set calorie limits for individual servings of flavored, low-fat milk. However, school food authorities that choose to offer flavored, low-fat milk are encouraged to obtain relevant information, such as the Robert Wood Johnson's Healthy Eating Research Healthier Beverage Guidelines, to inform procurement decisions. In addition, school food authorities that choose to offer flavored, low-fat milk should plan menus carefully to ensure that the weekly meals stay within the required calorie and saturated fat limits, and consult with their State agency as necessary to make proper menu adjustments.

Some commenters stated that the milk flexibility is unnecessary because most students seem to have accepted the 2012 provision that limits flavor to fat-free milk. While USDA acknowledges that many school food authorities have incorporated the 2012 meal patterns, USDA agrees with the Program operators who commented that expanding milk choices will likely improve student participation in the school meals programs and increase milk consumption. Offering flavored, low-fat milk expands the options available to schools to meet the milk requirement. Schools can choose to pursue this flavored milk option, or not, based on local preference. USDA encourages parents and students to provide feedback to their school food service operators regarding the menus and food products offered to students at lunch and breakfast (see existing provision at 7 CFR 210.12(a)).

The local school wellness policy, 7 CFR 210.31, also provides students, parents and interested community members an important opportunity to influence the school nutrition environment at large. In addition, as allowed in 7 CFR 210.19(e), State agencies have discretion to set stricter requirements that are not inconsistent with the minimum nutrition standards for school meals.

Accordingly, this final rule will amend the following milk provisions effective SY 2019–2020:

- NSLP (7 CFR 210.10(d)(1)(i); 7 CFR 210.11(m)(1)(ii), (m)(2)(ii) and (m)(3)(ii));
- SBP (7 CFR 220.8(d));
- SMP (7 CFR 215.7(a)(3)); and
- CACFP (7 CFR 226.20(a)(1)(iii) and (iv) and 7 CFR 226.20(c)(1), (2) and (3)).

Whole Grain-Rich Flexibility

The interim final rule provides State agencies through SY 2018–2019 discretion to grant exemptions to the whole grain-rich requirement to school food authorities that demonstrate hardship. School food authorities receiving an exemption must offer at least half of the weekly grains as whole grain-rich. (7 CFR 210.10(c)(2)(iv)(B) and 7 CFR 220.8(c)(2)(iv)(B)).

Comments in Support

Several commenters, including a food industry association, school district personnel, and individual commenters, reasoned that whole grain-rich exemptions should be allowed because some products (*e.g.,* pasta, bread, sushi rice, tortillas, and biscuits) and regional products (*e.g.,* grits in the South), are not acceptable to students in a whole grain-rich form. Other commenters, including food industry commenters, a healthcare professional, and an individual from academia, stated that it is necessary to allow the food industry sufficient time to develop solutions to the whole grain-rich challenges and provide operators more time to address preparation issues and develop menus and recipes that are acceptable to students. Some school district personnel said that the ''hot held for service'' practices in the food service make using some whole grain-rich products (*e.g.,* pasta) difficult. Other commenters noted that they found the exemption process too burdensome, and felt that a more flexible regulatory requirement would be simpler than extending the existing process. A number of commenters, including school district personnel, said the flexibility will result in lower costs and reduced food waste.

Comments in Opposition

Many commenters, including advocacy organizations, healthcare professionals, and form letters submitted by individuals, stated that the whole grain-rich flexibility should not be allowed because of the public health benefits associated with the consumption of whole grains. Commenters argued that schools should provide the healthiest foods possible, including whole grain-rich foods, because school meals may be the only wholesome meals available to some segments of the student population.

Several commenters expressed opposition to the whole grain-rich flexibility, reasoning that school meals help educate children about healthy eating for life.

Advocacy organizations, professional associations, healthcare professionals, and individuals said there is no need for the whole grain-rich flexibility because a significant percentage of schools are complying with the requirement and have not requested exemptions. Rather than exemptions, several commenters recommended that USDA provide additional training and technical assistance.

Mixed Response

Some commenters expressed conditional support or opposition, or offered suggestions for improving the interim final rule. A school nutrition organization, school district personnel, State agencies, professional associations, an advocacy organization, and individual commenters suggested that instead of extending the existing whole grain-rich flexibility, USDA should set a more flexible regulatory requirement for whole grains. Recommendations included the following:

- Requiring that at least half of the grains offered in the weekly menu be whole grain-rich;
- Requiring that at least 75 percent of the grains offered in the weekly menu be whole grain-rich; and
- Allowing one non-whole grain-rich menu item in the weekly menu.

In general, these commenters noted the exemption request process, which was legislatively required, is burdensome for school food authorities and State agencies.

USDA Response

Beginning SY 2019–2020, this final rule will require that at least half of the weekly grains offered in the NSLP and SBP meet the whole grain-rich criteria specified in FNS guidance, and that the remaining grain items offered must be enriched. This decision, recommended by the School Nutrition Association, representing 57,000 school nutrition professionals, is consistent with USDA's commitment to alleviate difficult regulatory requirements, simplify operational procedures, and provide school food authorities ample flexibility to address local preferences. By setting a more feasible whole grain-rich requirement in the NSLP and SBP, school districts nationwide are expected to incorporate whole grains easily while still providing menu items that meet local preferences. This change will remove the need for whole grain-rich exemption requests based on hardship, which many commenters, including State and local Program operators, described as burdensome.

The requirement to offer exclusively whole grain-rich products proved impractical for many school districts and, due to a long history of administrative and legislative actions allowing exemptions, it was never fully implemented nationwide. Seeking to assist operators, USDA allowed enriched pasta exemptions for SYs 2014–2015 and 2015–2016, and Congress expanded the pasta flexibility to include other grain products. Through successive legislative action, Congress directed the USDA to allow State agencies to grant individual whole grain-rich exemptions (Section 751 of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235); and Section 733 of the Consolidated Appropriations Act, 2016 (Pub. L. 114–113)). In addition, Section 747 of the Consolidated Appropriations Act, 2017 (Pub. L. 115–31) (2017 Appropriations Act) provided flexibilities related to whole grains for SY 2017–2018. Most recently, Section 101(a)(1) of the Continuing Appropriations Act, 2018, Division D of the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017, Public Law 115–56, enacted September 8, 2017, extended the flexibilities provided by section 747 of the Consolidated Appropriations Act, 2017 through December 8, 2017. The 2017 Appropriations Act provided authority for whole grain-rich exemptions through the end of SY 2017–2018, and the interim final rule (82 FR 56703) extends the availability of exemptions through SY 2018–2019. Despite all of these administrative and legislative actions, some school food authorities continue to experience challenges. Nevertheless, for SY 2017–2018, a total of 4,297 school food authorities (about 23 percent of school food authorities operating the school meal programs) submitted whole grain-rich exemption requests based on hardship, and nearly all (4,124) received exemption approval from their State agency.

USDA recognizes that it is not feasible to operate these nationwide programs in an ad hoc fashion, with recurrent exemptions, without giving operators and the food industry a workable regulatory solution that provides the long-term certainty they need for food procurement and product reformulation. At the same time, USDA is mindful of commenters' concerns about the health and dietary habits of children, and agrees that schools should provide the healthiest foods possible. The whole grain-rich requirement in this final rule is a minimum standard, not a maximum, and reflects in a practical and feasible way the Dietary Guidelines' emphasis on whole grains consumption. Requiring that at least half of the weekly grains offered in the NSLP and SBP be whole grain-rich is a minimum standard that schools have already accomplished and is highly achievable, supported by the School Nutrition Association, and provides exceptional flexibility for local operators in planning wholesome and appealing school meals.

By re-implementing the whole grain-rich requirement that was in place from SY 2012–2013 through SY 2013–2014, USDA recognizes the nutritional benefits of whole grains as well as the need for gradual adjustments in school menu planning, procurement, and food service equipment. USDA expects that many schools will continue to provide a significant portion of their grain products each week in the form of whole grain-rich foods as they are currently required to do so. As noted above, at least half of the grains offered weekly must be whole grain-rich, and the other grain items offered must be enriched.

USDA encourages Program operators to incorporate whole grain-rich products in the school menu when possible, especially in popular menu items such as pizza. USDA will continue to provide training and technical assistance resources to assist in these efforts. In addition, USDA Foods will continue to make whole grain-rich products easily available to Program operators. For example, whole grain or whole grain-rich USDA Foods available to schools for SY 2018–2019 include flour, rolled oats, pancakes, tortillas, and several varieties of pasta and rice. Requiring that half of the weekly grains be whole grain-rich is intended to set a floor and not a ceiling. Schools already offering all grains as whole grain-rich do not have to change their menus as a result of this final rule.

As stated earlier, 7 CFR 210.19(e) allows State agencies discretion to set additional requirements that are not inconsistent with the minimum nutrition standards for school meals. For example, State agencies could require school food authorities to offer whole grain-rich products for four days in the school week (or approximately 80 percent of the weekly meals), thus allowing enriched grains one day each week, as suggested by a commenter. At the local level, 7 CFR 210.12(a) allows students, parents and community members to influence menu planning by

providing ideas on the use of whole grain-rich products in the weekly menu. The local school wellness policy (7 CFR 210.31) also provides an important opportunity to influence the school nutrition environment at large.

Accordingly, this final rule will amend the following grains provisions effective SY 2019–2020:

- NSLP (7 CFR 210.10(c)(2)(iv)(B)); and
- SBP (7 CFR 220.8(c)(2)(iv)(B)).

Sodium Flexibility

The interim final rule retained Sodium Target 1 in the NSLP and SBP through SY 2018–2019 (7 CFR 210.10(f)(3) and 7 CFR 220.8(f), respectively), and requested comments on the long-term availability of this flexibility. It also retained Target 2 and the final target as part of the sodium reduction timeline.

Comments in Support

School personnel and individual commenters spoke about the work done by school food service professionals, manufacturers, and vendors in striving to meet Sodium Target 1. These commenters also expressed concern about the acceptance of meals with lower sodium content by students, who are accustomed to eating foods with higher sodium content outside of school. Trade associations, a healthcare professional, and a nutritionist said that extending Sodium Target 1 through SY 2018–2019 is necessary as there are challenges in reducing sodium across the food supply.

Several commenters stated that schools not equipped for ''scratch'' cooking rely heavily on processed/manufactured foods; therefore, these commenters think it is appropriate to extend Target 1 until the food industry is able to develop palatable products with lower sodium content. Other commenters and a professional association argued that there is no conclusive scientific evidence to support the benefits of further sodium reduction in school meals, and there is uncertainty about the long-term effects on child or teen development and overall health.

Trade associations, a healthcare professional, and a nutritionist said extending Sodium Target 1 is important to accommodate the ongoing update of the current Dietary Reference Intakes (DRI) for sodium and potassium. The DRIs, a set of reference values used to plan and assess the diets of healthy individuals and groups, are updated periodically as needed. The commenters said USDA should wait for the DRI review currently underway by The National Academies of Sciences, Engineering and Medicine (NASEM) before taking further action on sodium reduction. NASEM DRI review of sodium and potassium began in fall 2017 and a draft report is expected by spring 2019. See more information about the DRIs at *https://www.nal.usda.gov/fnic/dietary-reference-intakes.*

A State agency and trade associations supported extending Target 1 through at least the end of SY 2020–2021. A school nutrition organization and school district personnel supported retaining Target 1 as the final sodium target and eliminating the other sodium targets.

A professional association and policy advocacy organization stated that Target 3 (the final target) is fundamentally unattainable. They expressed concern that the final sodium target relies on changes to manufacturing processes that could use technologies or chemical substitutes that pose greater health risks than the sodium they would replace.

Comments in Opposition

Many individual commenters participating in form letter campaigns, a State agency, policy advocacy organizations, and professional associations expressed concern that the sodium flexibility will lead to negative health effects in children, such as increased risk of high blood pressure, heart disease, obesity, and stroke. A policy advocacy organization said lowering sodium consumption, and thereby reducing the risk of high blood pressure, can substantially reduce public health costs.

Commenters also asserted that there is no need for sodium flexibility because Sodium Target 2 is achievable and many school districts are working toward or already providing wholesome and appealing meals with less sodium. A policy advocacy association said that several food companies, such as Aramark, General Mills, Kraft-Heinz, Mars Food, Nestle, PepsiCo, Tyson Foods, Subway, Panera, and Unilever, have been leaders in voluntary sodium reduction and, therefore, there are more products with healthier levels of sodium readily available in the marketplace. A food manufacturer stated that its commitment to developing a range of lower sodium options demonstrates the industry's ability to be a productive partner in addressing crucial public health problems. Other commenters expressed concern that extending the Target I flexibility could lead industry to halt reformulation and innovation efforts, and discourage school efforts to continue sodium reduction.

Some commenters expressed concern that extending Target 1 moves meal requirements away from evidenced-based dietary guidance. A policy advocacy organization stated that the Richard B. Russell National School Lunch Act requires that school meals be aligned with the Dietary Guidelines for Americans, and continuing to delay implementation of the sodium targets creates inconsistency with the law. In addition, policy advocacy associations, professional associations, and individuals participating in form letter campaigns opposed extending Target 1 until SY 2020–2021, stating it would harm children's health. Many commenters stated that, rather than delaying the sodium targets, USDA should address remaining challenges by providing operators targeted training, technical assistance, and demonstrated strategies and best practices.

Mixed Response

Some commenters provided mixed feedback on the flexibility, including conditional support or opposition, or suggestions for improvement. A food bank supported the retention of Target 1 through the end of SY 2018–2019, but asserted that school districts should be encouraged to procure and introduce lower sodium foods in preparation for the implementation of Target 2. A school advocacy organization encouraged USDA to implement Target 2 ''at a future date.'' Two chapters of a school nutrition organization that supported the Target 1 flexibility also suggested eventual implementation of Target 2. A professional association and policy advocacy organization supported delaying Target 2 and recommended that Target 2 should be the final target. The commenters also recommended that USDA re-evaluate Target 2 in light of science-based research and the DRI for sodium.

USDA Response

This final rule will provide schools in the NSLP and SBP more time for gradual sodium reduction by retaining Sodium Target 1 through the end of SY 2023–2024, requiring compliance with Sodium Target 2 in SY 2024–2025 (which begins July 1, 2024; see charts), and eliminating the Final Target that would have gone into effect in SY 2022–2023.

NATIONAL SCHOOL LUNCH PROGRAM—SODIUM TIMELINE & LIMITS

Age/grade group	Target 1: July 1, 2014 SY 2014–2015 (mg)	Target 2: July 1, 2024 SY 2024–2025 (mg)
K–5	≤1,230	≤935
6–8	≤1,360	≤1,035
9–12	≤1,420	≤1,080

SCHOOL BREAKFAST PROGRAM—SODIUM TIMELINE & LIMITS

Age/grade group	Target 1: July 1, 2014 SY 2014–2015 (mg)	Target 2: July 1, 2024 SY 2024–2025 (mg)
K–5	≤540	≤485
6–8	≤600	≤535
9–12	≤640	≤570

In developing this final rule, USDA was mindful of the review of the DRIs for sodium and potassium intake currently underway by The National Academies of Sciences, Engineering, and Medicine. Some commenters said that USDA should extend Target 1 to accommodate the DRI review, which will inform the public on goals for long-term sodium reduction. In addition, the new Dietary Guidelines for Americans are expected to be released by the end of calendar year 2020. USDA agrees that it is reasonable to extend Target 1, delay Target 2 implementation, and refrain from setting sodium reduction goals beyond Target 2 until the DRI report and the 2020 Dietary Guidelines are published and USDA has the opportunity to assess their impact on school meals. In retaining Target 2, USDA is recognizing the need for further sodium reduction. However, delaying implementation of Target 2 until July 1, 2024, will ensure that USDA has the time necessary to make any regulatory adjustments based on the most current scientific recommendations, including providing adequate notice to stakeholders of any such adjustments. In the meantime, the sodium timeline established by this rule will provide schools and the food industry the regulatory certainty they need to conduct food procurement and product reformulation activities. We recognize that regulatory certainty is essential to incentivize the food industry's efforts to support the service of wholesome and appealing school meals.

Extending Target 1 is also important for practical reasons. As noted by several commenters, many schools are not equipped for scratch cooking, which makes further sodium reduction challenging. Setting a more flexible approach to sodium reduction allows more time for product reformulation, school menu adjustments, food service changes, personnel training, and changes in student preferences. State agencies that commented on the sodium timeline generally noted that school districts need more time for sodium reduction.

For the sake of clarity, it is important to note that the sodium limit applies to the average meal offered during the school week; it does not apply per day or per meal. Menu planners may offer a relatively high sodium meal or high sodium food at some point during the week if meals with lower to moderate sodium content are offered the rest of the week.

USDA remains committed to strong nutrition standards for school meals, consistent with the statutory requirement that school meals reflect the Dietary Guidelines for Americans. Our intention is to ensure that the sodium targets reflect the most current Dietary Guidelines for Americans and DRIs, are feasible for most schools, and allow them to plan appealing meals that encourage consumption and intake of key nutrients that are essential for children's growth and development. USDA also shares commenter concerns that near-term implementation of further sodium reduction in schools could potentially lower the acceptance of meals with lower sodium content by students, who are currently accustomed to eating foods with higher sodium content outside of school. This could negatively impact program participation and contribute to food waste.

We acknowledge that since 2012 schools have made significant efforts to reduce the sodium content of meals. We encourage families and communities to support schools' efforts by taking gradual steps to reduce the sodium content of meals offered to children outside of schools. Wholesome school meals are only a part of children's daily food intake, and children will be more likely to eat them if the foods available to them at home and in the community are also lower in sodium. Helping students adjust their taste preferences requires collaboration between schools, parents, and communities. As stated earlier, student, parent, and community involvement in menu planning is allowed at 7 CFR 210.12(a). The local school wellness policy at 7 CFR 210.31 also provides an important opportunity to influence the school nutrition environment at large.

State agencies whose school food authorities are close to meeting Target 2 may wish to continue their trajectory and implement Target 2 before the required timeline. As allowed in 7 CFR 210.19(e), State agencies have the ability to set stricter requirements that are not inconsistent with the minimum nutrition standards for school meals. USDA will continue to provide Program operators with technical assistance, training resources, and mentoring to help them offer the best possible meals. In addition, USDA Foods will continue to provide food products with no added salt and/or low sodium content for inclusion in school meals.

This final rule provides flexibility to address sodium challenges and sets a new timeline to build on the progress made. It is intended to address commenters' concerns regarding student acceptability and consumption of meals with lower sodium content, food service operational issues, food industry's reformulation and innovation challenges, and the important goal to safeguard the health of millions of school children. This final rule balances nutrition science, practical application of requirements, and the need to ensure that children receive wholesome and appealing meals.

Accordingly, this final rule will amend the following sodium provisions effective SY 2019–2020:

- NSLP (7 CFR 210.10(f)(3)); and
- SBP (7 CFR 220.8(f)).

Procedural Matters

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Economic Summary

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). USDA does not anticipate that this final rule is likely to have an economic impact of $100 million or more in any one year, and therefore, does not meet the definition of ''economically significant''

under Executive Order 12866. The RIA for an earlier final rule, *Nutrition Standards in the National School Lunch and School Breakfast Programs* (77 FR 4088, January 26, 2012), underscores the importance of recognizing the linkage between poor diets and health problems such as childhood obesity. In addition to the impacts on the health of children, the RIA also cites information regarding the social costs of obesity and the additional economic costs associated with direct medical expenses of obesity. The RIA for the 2012 rule included a literature review to describe qualitatively the benefits of a nutritious diet to combat obesity and did not estimate individual health benefits or decreased medical costs that could be directly attributed to the changes in the final rule, due to the complex nature of factors that impact food consumption and obesity.[4] USDA believes the specific flexibilities in this final rule are intended to ease Program operator burden while ensuring the majority of the changes resulting from the 2012 regulation remain intact.

The Secretary of Agriculture acknowledged the operational challenges in meeting the meal standards related to flavored milk, whole grain-rich products, and sodium targets in the May 1, 2017, Proclamation and committed to working with stakeholders to ensure that school meal requirements are practical and result in wholesome and appealing meals. The interim final rule *Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements* (82 FR 56703, November 30, 2017), established regulations that extend the school meal flexibilities through SY 2018–2019. For SY 2018–2019, the regulations provide NSLP and SBP operators the option to offer flavored low-fat (1 percent fat) milk with the meal and as a beverage for sale during the school day, and apply the flexibility in the SMP and CACFP for participants age 6 years and older; extend the State agencies' option to allow individual school food authorities to include grains that are not whole grain-rich in the weekly NSLP and SBP menus; and retain Sodium Target 1 in the NSLP and SBP.

This final rule makes specific modifications to the milk, grain, and sodium requirements beginning in SY 2019–2020. The purpose of this rule is to ease operational burden and provide school nutrition professionals the flexibility needed to successfully operate the Child Nutrition Programs. This final rule makes the following changes beginning in SY 2019–2020:

- Allow NSLP and SBP operators the option to offer flavored low-fat milk and require that unflavored milk be offered at each meal service. For consistency, the flavored milk flexibility will be extended to beverages for sale during the school day, and will also apply in the SMP and CACFP for participants ages 6 years and older. This flexibility will not apply to the Summer Food Service Program as flavored low-fat milk is already allowed in that Program.
- Require that at least half of the weekly grains offered in the NSLP and SBP be whole grain-rich.
- Retain Sodium Target 1 through the end of SY 2023–2024 and require compliance with Sodium Target 2 in SY 2024–2025, which begins July 1, 2024.

USDA expects the health benefits of the meal standards, which are mainly left intact, to be similar to the overall benefits of improving the diets of children cited in the RIA for the 2012 meal standards rule. While the changes in this final rule provide flexibilities to the 2012 regulations, the targeted nature of the three specific changes addresses persistent Program operator and stakeholder challenges with milk, grain, and sodium requirements. Program operators may exceed these minimum requirements and must continue to meet the same caloric and fat limits specified in the 2012 rule. The nation's students will continue to benefit from the suite of changes in the 2012 regulations and the health benefits qualitatively described in the 2012 RIA still apply.

As explained above, this final rule eases the operational challenges associated with these three requirements while balancing the nutrition science, as stated in the Dietary Guidelines for Americans, and the Program operator's ability to comply with the overall standards and the importance of ensuring children receive wholesome and appealing meals. These challenges were cited during a period of decreased meal consumption and Program participation, and some Program operators reported offering meals that did not appeal to children. The USDA Special Nutrition Program Operations Studies for SYs 2012–2013 and 2013–2014 suggested that, as with any major change, there were some challenges. During the initial years of implementation of the 2012 school meal regulations, nearly one third of SFAs reported challenges finding products to meet the updated nutrition standards. For example, food costs, student acceptance, and the availability of products meeting the standards were the primary challenges anticipated in implementing the whole grain-rich requirement in full.[5] According to USDA administrative data, the largest decrease in NSLP lunch participation occurred in FY 2013 (-3%) which was the first fiscal year the standards went into effect. This decrease was driven by a substantial decrease in the paid lunch category. While paid lunch participation had decreased since 2008, the drop in 2013 was the largest decrease in over 20 years. There were other changes implemented during this timeframe, most notably the requirement to incrementally increase paid lunch prices; however some of the drop may have been due to students choosing not to participate due to the new meal standards. Paid lunch participation continues to decline but at a slower rate in recent years. Total participation has remained relatively stable for the past 3 years. While there have been many successes in the implementation of the 2012 standards,[6] some Program operators still face challenges with fully implementing the suite of changes. The flexibilities in this rule provide relief to these Program operators allowing them to successfully offer wholesome and appealing meals to students.

USDA is committed to nutrition science but also understands the importance of practical requirements for Program operators to successfully operate the Child Nutrition Programs. The changes set forth in this rule still show progress in school meal nutrition, and children will continue to be offered and exposed to wholesome school meals to facilitate nutritious choices in the future. Further, we do not anticipate

[4] *https://www.gpo.gov/fdsys/pkg/FR-2012-01-26/pdf/2012-1010.pdf:* ''Because of the complexity of factors that contribute both to overall food consumption and to obesity, we are not able to define a level of disease or cost reduction that is attributable to the changes in meals expected to result from implementation of the rule. As the rule is projected to make substantial improvements in meals served to more than half of all school-aged children on an average school day, we judge that the likelihood is reasonable that the benefits of the rule exceed the costs, and that the final rule thus represents a cost-effective means of conforming NSLP and SBP regulations to the statutory requirements for school meals.''

[5] Standing, Kim, Joe Gasper, Jamee Riley, Laurie May, Frank Bennici, Adam Chu, and Sujata Dixit-Joshi. Special Nutrition Program Operations Study: State and School Food Authority Policies and Practices for School Meals Programs School Year 2012–13. Project Officer: John R. Endahl. Prepared by Westat for the U.S. Department of Agriculture, Food and Nutrition Service, October 2016; J. Murdoch *et al.* (2016). Special Nutrition Program Operations Study, SY 2013–14 Report. Prepared by 2M Research Services, LLC. Alexandria, VA: U.S. Department of Agriculture, Food and Nutrition Service. Project Officers: Toija Riggins and John Endahl.

[6] Robert Wood Johnson Foundation's Bridging the Gap Release on School Meals Perceptions in Childhood Obesity. September 2013. *http://www.rwjf.org/en/library/research/2014/06/bridging-the-gap-s-work-on-childhood-obesity.html.*

this final rule will deter the significant progress made to date [7] by State and local operators, USDA, and industry manufacturers to achieve healthy, palatable meals for students. The certainty this rule provides around the changes to the standards will provide industry the ability to commit to reformulating products and work towards innovative solutions. These changes also provide relief to Program operators who may be meeting the standards but still facing the sustained challenges addressed in this final rule.

Cost Impact

Similar to the interim final rule, USDA anticipates minimal if any costs associated with the changes to the nutrition standards for milk, grains, and sodium. The overall meal components, macro nutrient, and calorie requirements for the lunch and breakfast programs remain unchanged, and it is the Program operators' option to use the milk flexibility or exceed the minimum whole grain-rich and sodium standards established in this final rule. These changes are also promulgated in the context of significant progress made to date by State and local operators, USDA, and food manufacturers to achieve healthy, appealing meals for students.

Local operators struggling with one or all of these requirements are expected to benefit from the more flexible nutrition standards and be better able to balance the service of wholesome meals with availability of current and future resources for preparing appealing meals. The added flexibility for the milk and grain requirements and the additional time to implement sodium Target 2 are expected to provide certainty for Program operators to effectively procure food to develop wholesome and appealing menus.

Milk Flexibility

As stated in the interim final rule, there may be some cases in which flavored, low-fat milk is slightly more expensive and for some it might be slightly less expensive than the varieties currently permitted in the 2012 meal standards rule, but any overall difference in cost is likely to be minimal. The requirement that unflavored milk be offered at each school meal service is not expected to impact cost. Unflavored milk was a popular offering prior to the updated meal standards. In SY 2009–2010, the most commonly offered milks were unflavored, low-fat (73 percent of all daily NSLP menus) and flavored, low-fat (63 percent).Whole milk was offered in fewer than five percent of all daily menus.[8] Given that unflavored milk was already a part of the majority of school meal menus prior to the new standards, the requirement to offer unflavored along with flavored milk is not anticipated to be an additional burden to Program operators and is likely a practice Program operators have already incorporated to satisfy the variety requirement.

Whole Grain-Rich Flexibility

The changes in this final rule provide Program operators the flexibility to offer some non-whole grain-rich products that are appealing to students without the administrative burden of the exemption process. The requirement that at least half of the weekly grains offered in NSLP and SBP be whole grain-rich may provide savings for some Program operators facing challenges procuring certain whole grain-rich products; however, we expect that as more products become available, any differential costs associated with whole grain-rich and non-whole grain-rich products will normalize in the market. The availability of whole grain-rich products through USDA Foods and the commercial market has increased significantly since the implementation of the 2012 meal standards and continues to progress, providing new and affordable options for local operators to integrate into menus. Finally, due to the wide variation in local adoption of this flexibility, any overall savings are likely minimal.

Sodium Flexibility

This final rule extends Sodium Target 1 through school year 2023–2024 and requires compliance with Sodium Target 2 in school year 2024–2025. This decision allows more time to develop products that meet the rule's standards and provides industry with the certainty needed to continue to develop new appealing products. This sodium reduction timeline allows for the opportunity for any potential impacts to the school meal programs from the updated DRI report and the 2020 Dietary Guidelines for Americans to be considered. The extension of Target 1 and the resulting delay of the implementation of Target 2 to SY 2024–2025 provide adequate time to accommodate any potential changes, including regulatory adjustments to incorporate updated scientific recommendations. USDA recognizes the need for sodium reduction in school meals and is still retaining Target 2. USDA anticipates that Program operators will continue their efforts to reduce sodium in school meals while industry will continue to work towards lower sodium formulations. We do not anticipate any additional costs associated with this change as it allows additional time for Program operators and industry to reduce sodium levels in meals.[9]

Overview of Public Comments and USDA Response

There were about 20 comment submissions that provided input on risks or benefits of the interim final rule. The American Public Health Association submitted a form letter representing 15 individuals who claimed the USDA underestimated the reduced health benefits. They expressed concern that the flexibilities could lower the estimated health benefits over time. They indicated that the Economic Summary does not provide a sufficiently thorough assessment of lost benefits and concluded that, in the final rule, USDA must calculate the reduced benefit to children for any changes it makes to the school nutrition standards related to sodium, whole grains, or flavored milk.

Similarly, the American Heart Association said USDA states in the interim final rule that the benefits would be similar as the original RIA conducted on the 2012 rule. They questioned how the impact could remain the same when children are served more sodium, fewer whole grain-rich foods, and milk with higher calories and saturated fat. They stated

[7] FNS National Data Bank Administrative Data: 99.8% of lunches served in fiscal year (FY) 2017 received the performance based reimbursement for compliance with the meal standards. This includes lunches served in SFAs granted whole grain exemptions.

[8] U.S. Department of Agriculture, Food and Nutrition Service, Office of Research and Analysis, School Nutrition Dietary Assessment Study IV, Vol. I: School Foodservice Operations, School Environments, and Meals Offered and Served, by Mary Kay Fox, Elizabeth Condon, Mary Kay Crepinsek, et al. Project Officer, Fred Lesnett Alexandria, VA: November 2012.

[9] In the RIA for the final rule, *Nutrition Standards in the National School Lunch and School Breakfast Programs* (77 FR 4088), meeting the first sodium target was not estimated as a separate cost due to the fact that the first target was meant to be met using food currently available when the target went into effect in SY 2014–2015 (or by making minimal changes to the foods offered). While the regulatory impact analyses did not estimate a separate cost to implement Sodium Target 1, it did factor in higher labor costs for producing meals that meet all the meal standards at full implementation to factor in the costs of schools replacing packaged goods to food prepared from scratch. Over 5 years, the final rule estimated that total SFAs costs would increase by $1.6 billion to meet all standards. The cost estimate extended only through FY 2016, two years before the final rule's second sodium target would have taken effect. The second sodium target was designed to be met with the help of industry changing food processing technology.

that USDA should recalculate the RIA and indicate the reduced health benefit caused by these changes to the school nutrition standards.

USDA Response

The following sections review the changes and provide additional information regarding potential nutritional impacts.

Milk Flexibility

In this final rule, USDA will allow NSLP and SBP operators the option to offer flavored, low-fat milk and require that unflavored milk be offered at each meal service. The flavored milk flexibility will be extended to beverages for sale during the school day, and will also apply in the SMP and CACFP for participants ages 6 years and older.

As noted in the interim final rule, the regulatory impact analyses for the final rule, *Nutrition Standards in the National School Lunch and School Breakfast Programs* (77 FR 4088), did not estimate the health benefits associated with specific changes in meal components such as the exclusion of flavored, low-fat milk. USDA's decision to allow flavored low-fat milk reflects the concerns of declining milk consumption and the importance of the key nutrients provided by milk.[10] Menu planners must make necessary adjustments in the weekly menu to account for the additional calories and fat content associated with offering flavored low-fat milk because this final rule does not change the upper caloric and fat limits specified in the 2012 regulations. In addition, the requirement to offer unflavored milk at each meal service ensures students will have access to a choice in milk types and also prevents schools from only offering different flavored milk types to satisfy the milk variety requirement. USDA estimates the nutritional impact of allowing flavored, low-fat milk to be minimal with the added calories and fat to be managed within the upper caloric and fat limits. Further, student intake of key nutrients provided through milk will increase if milk consumption increases.

Whole Grain-Rich Flexibility

The interim final rule retains through SY 2018–2019 the State agency's discretion to grant whole grain-rich exemptions to school food authorities that demonstrate hardship. School food authorities receiving an exemption must offer at least half of the weekly grains as whole grain-rich.

Starting in SY 2019–2020, this final rule will require that at least half of the weekly grains offered in the NSLP and SBP meet the whole grain-rich criteria specified in FNS guidance, and the remaining grain items offered must be enriched. This decision was made to reduce Program operator burden while still providing children access to whole grain-rich items. The requirement to offer all whole grain-rich items was never fully implemented due to the exemption process, and about 20 percent of school food authorities still face challenges and apply for exemptions (over 4,000 school food authorities for SY 2017–2018).[11] The most commonly requested items for exemption were pasta, tortillas, biscuits, and grits. While it is important to recognize the existing challenges with some whole grain-rich items, the vast majority (80 percent) of school food authorities strived to meet the requirement and did not request exemptions in SY 2017–2018. The impact of reducing the requirement from all grains offered to half the grains offered as whole grain-rich recognizes the importance of including whole grains in children's diets without increasing operational burden.

The exemption process has been in place since the requirement for all grains to be whole grain-rich went into effect in SY 2014–2015. This exemption process placed a burden on Program operators and created uncertainty for stakeholders. As noted above, the majority of the exemption requests were for a few items and the process to apply for an exemption varied by State. Retaining the requirement that at least half the grains are whole grain-rich is a familiar requirement for Program operators as it was in place for two years before the requirement shifted to all grains offered be whole grain-rich. USDA believes that the requirement for half the grains to be whole grain-rich is to be viewed as a minimum amount and Program operators will likely continue to serve whole grain-rich items that have been successfully integrated into menus while allowing for the few items that are not as successful to still be offered.

USDA does not anticipate Program operators will reduce the amount of whole grain-rich offerings if they already exceed the retained standard, although that is a possibility. Rather, USDA believes that this change will allow the time necessary for more palatable and widely available whole grain-rich items to continue to be integrated into menus. USDA does not have evidence that setting the whole grain-rich requirement to a percentage greater than half and less than all grains will successfully address Program operator concerns. Reinstating the requirement that half of grains must be whole grain-rich is familiar to Program operators and provides the flexibility for some Program operators to integrate palatable whole grain-rich items into their menus while still serving items that are appealing to the students.

USDA recognizes that re-implementing the whole grain-rich requirement in place from SY 2012–2013 through SY 2013–2014 will result in some offered grain items not transitioning to whole grain-rich, and that children may not receive some key nutrients associated with whole grain-rich items. However, this rule will retain the requirement that the grains that are not whole must be enriched.

As discussed above, the vast majority of schools are expected to meet the whole-grain-rich requirements in SY 2017–2018 and did not request exemptions, demonstrating that the majority of schools are moving toward meeting the whole grain-rich standard. This rule, by continuing to require that at least half of the offered grains items be whole grain-rich, will continue to ensure that children receive whole grain-rich products as part of their school meals. The specific flexibilities in this final rule will ease Program operator burden while ensuring the majority of the changes resulting from the 2012 regulation remain intact. There are select products that are difficult to prepare, procure, or do not appeal to students that make it challenging to meet the requirement that all weekly grains offered must be whole grain-rich. Industry has worked and continues to work diligently to increase the number of products reformulated to be whole grain-rich while still appealing to students. While this shows significant progress, the continued use of waivers and challenges faced by Program operators to serve all whole grain-rich items persisted. Moving back to the requirement that at least half of the grains offered be whole grain-rich provides the stability for Program operators to add slowly and successfully more whole grain-rich items into menus without undergoing a burdensome exemption process. The requirement for at least half of the grain offered to be whole grain rich is familiar to Program operators and USDA does not have any evidence that setting the standard at a higher percentage would successfully alleviate the challenges. Finally, this requirement is the minimum limit, providing Program operators the choice

[10] *https://www.gpo.gov/fdsys/pkg/FR-2017-11-30/pdf/2017-25799.pdf.*

[11] USDA informal State reported data.

to exceed this and offer more whole grain-rich items as they develop wholesome and appealing menus.

USDA believes this change will allow more time for industry to develop appealing whole grain-rich items as well as provide more opportunities for training and technical assistance to better incorporate whole grain-rich items. Additionally, USDA Foods, which makes up about 15 to 20 percent of the food items offered on an average school day, continues to develop new whole grain-rich products each year.

Re-instating the requirement that at least half of the grains offered be whole grain-rich will provide Program operators the local control necessary to continue to serve items that meet local preferences while still exposing students to nutritious whole grain-rich products.

Sodium Flexibility

The interim final rule retained Sodium Target 1 in the NSLP and SBP through SY 2018–2019 (7 CFR 210.10(f)(3) and 7 CFR 220.8(f), respectively), and requested comments on the long-term availability of this flexibility. It also retained Target 2 and the final target as part of the sodium reduction timeline. This final rule will extend Target 1 through the end of SY 2023–2024, require compliance with Sodium Target 2 starting in SY 2024–2025, and eliminate the Final Target that would have gone into effect in SY 2022–2023. USDA is responding to the challenges associated with reducing the sodium level in school meals.

The impact of extending Sodium Target 1 through SY 2023–2024 increases the average daily sodium level permitted by about 55–70mg for breakfast and 300–340mg for lunch depending on the age/grade group compared to Sodium Target 2. Sodium Target 1 is about 90 to 93 percent of the daily upper intake level for both lunch and breakfast.

TABLE 1—BASELINE SODIUM AND TARGET LEVELS FOR SBP AND NSLP COMBINED COMPARED TO RECOMMENDED DAILY INTAKE LEVEL

Age/grade group	Baseline average sodium level as offered before 2012 regulations (mg)	Total school meals (breakfast + lunch sodium target) (mg)			Recommended daily sodium intake level (mg)	
		Target 1	Target 2	Final target [1]	Child age	Tolerable upper level
K–5	1,950	1,770	1,420	1,070	4 to 8	1,900
6–8	2,149	1,960	1,570	1,180	9 to 13	2,200
9–12	2,274	2,060	1,650	1,240	14–18	2,300
		Percent of Daily Tolerable Upper Level				
K–5	102.6%	93.2%	74.7%	56.3%		
6–8	97.7%	89.1%	71.4%	53.6%		
9–12	98.9%	89.6%	71.7%	53.9%		

[1] The Final Target is presented for analysis purposes only as this rule will remove the Final Target that would have gone into effect in school year 2022–2023.

The average baseline sodium levels for school meals prior to the updated standards made up 98 percent to over 100 percent of the tolerable upper level of daily sodium intake. This extension of Target 1 and delay in Target 2 provides time for the DRI report and the 2020 Dietary Guidelines to be published, and for USDA to consider the updated information and potential impact on school meals. This timeline allows for any adjustments to be made, including regulatory changes, if needed, to incorporate any updated scientific information regarding sodium. USDA is retaining Target 2 recognizing the need for further sodium reduction beyond Target 1. The additional time also allows for Program operators to slowly introduce lower sodium foods to students and for industry to develop consistent lower sodium products that are palatable for students.

School children are consuming a considerable amount of sodium, and school meals contribute to their daily total. On average, most students consume 14 percent of their daily sodium intake at breakfast, 31 percent at lunch, 39 percent at dinner, and the remaining 16 percent through snacks. More than 9 in 10 U.S. school children eat more sodium than the age-specific Tolerable Upper Intake Level established by the Food and Nutrition Board, NASEM (over 130 to 150 percent of the daily recommended amount).[12]

It is important that the sodium level in school meals is gradually reduced to assist in introducing children to lower sodium foods. Delaying the implementation of Sodium Target 1 provides the certainty for industry members to continue to develop and test lower sodium foods for both the school meal programs and the general public.

Sodium Target 2 makes up about 71 to 75 percent of total upper intake level. This continued reduction balances the need for strong nutrition standards with the operational concerns and student acceptance of school meals. The elimination of the Final Target will allow 55–70mg more sodium for breakfast and 300–340mg for lunch. The Final Target would have made up about 54 to 56 percent of the total upper intake level.

The extension of Target 1 and delay in Target 2 provide the additional time needed for USDA to assess the DRI report and the 2020 Dietary Guidelines for Americans, which are scheduled for release at the end for 2020. Extending the Sodium Target 1 through SY 2023–2024 allows USDA to incorporate the latest scientific evidence into the school meal standards, including time needed for potential regulatory changes.

As noted earlier, we understand that there has been significant progress to date with sodium reduction in school meals. The additional time this rule provides will also enable Program operators to continue to progress, while allowing industry partners to continue to develop innovative solutions to lower sodium foods that can be served in the school meal programs.

Other Comments

An individual commenter said strict nutrition standards without reimbursement from the USDA impose high costs to feed children healthy

[12] Sodium Intake among US School-Aged Children: National Health and Nutrition Examination Survey, 2011–2012 Quader, Zerleen S. et al. Journal of the Academy of Nutrition and Dietetics, Volume 117, Issue 1, 39–47.e5.

meals in small schools, and some participating schools are considering leaving the program due to a low frequency of low-income children buying school lunch, resulting in a significant loss of revenue. The commenter concluded that this rule will increase student participation in purchasing school meals and thus help schools compensate for loss of revenue and high cost expenditures.

USDA believes that adding flexibility to the nutrition standards will allow Program operators additional time to work with available products to provide wholesome and appealing meals to students within available resources. This will help increase student consumption of meals and reduce waste and revenue loss. While the changes resulting from the 2012 regulations may not have resulted in long-term impacts for participation in some schools,[13] USDA understands there is a wide variation in school food authorities and challenges encountered by Program operators. The changes in this final rule will provide the local level control necessary to successfully operate the school meal programs.

Executive Order 13771

This final rule is an E.O. 13771 deregulatory action. It alleviates the milk, whole grain-rich, and sodium requirements in the Child Nutrition Program and provides flexibilities similar to those currently available as a result only of appropriations legislation in effect for SY 2017–2018 and administrative actions.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Because this final rule adds flexibility to current Child Nutrition Program regulations, the changes implemented through this final rule are expected to benefit small entities operating meal programs under 7 CFR parts 210, 215, 220, and 226. The impacts are not expected to be significant.

Unfunded Mandates Reform Act

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

This final rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and Tribal governments or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The NSLP, SMP, SBP, and the CACFP are listed in the Catalog of Federal Domestic Assistance under NSLP No. 10.555, SMP No. 10.556, SBP No. 10.553, and CACFP No. 10.558, respectively, and are subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. Since the Child Nutrition Programs are State-administered, USDA's FNS Regional Offices have formal and informal discussions with State and local officials, including representatives of Indian Tribal Organizations, on an ongoing basis regarding program requirements and operations. This provides FNS with the opportunity to receive regular input from program administrators and contributes to the development of feasible program requirements.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132.

The Department has considered the impact of this final rule on State and local governments and has determined that this rule does not have federalism implications. Therefore, under section 6(b) of the Executive Order, a federalism summary is not required.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this final rule in accordance with USDA Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After a careful review of the rule's intent and provisions, FNS has determined that this rule is not expected to limit or reduce the ability of protected classes of individuals to participate in the NSLP, SMP, SBP, and CACFP or have a disproportionate adverse impact on the protected classes. The Civil Rights Impact Analysis is available for public inspection under the Supporting Documentation tab in docket FNS–2017–0021.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FNS has assessed the impact of this final rule on Indian tribes and determined that this rule does not, to the best of its knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, FNS will work with the Office of Tribal Relations to ensure meaningful consultation is

[13] Impact of the 2010 U.S. Healthy, Hunger-Free Kids Act on School Breakfast and Lunch Participation Rates Between 2008 and 2015 Nicole Vaudrin MS, RD, Kristen Lloyd MPH, Michael J. Yedidia Ph.D., MPH, Michael Todd Ph.D., and Punam Ohri-Vachaspati Ph.D., RD.

provided where changes, additions, and modifications identified herein are not expressly mandated by Congress. Tribal representatives were informed about this rulemaking on March 14, 2018.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR part 1320) requires the Office of Management and Budget (OMB) to approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. The provisions of this final rule do not impose new information collection requirements subject to approval by the OMB under the Paperwork Reduction Act of 1994.

E-Government Act Compliance

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

List of Subjects

7 CFR Part 210

Grant programs-education, Grant programs—health, Infants and children, Nutrition, Penalties, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 215

Food assistance programs, Grant programs—education, Grant program—health, Infants and children, Milk, Reporting and recordkeeping requirements.

7 CFR Part 220

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

7 CFR Part 226

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs—health, American Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR parts 210, 215, 220, and 226 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

■ 2. In § 210.10:

■ a. In paragraph (c) introductory text, revise the table;

■ b. In paragraph (c)(2)(i)(A), second sentence, remove ''ppendix A'' and add in its place ''appendix A''; and

■ c. Revise paragraphs (c)(2)(iv)(B), (d)(1)(i), and (f)(3).

The revisions read as follows:

§ 210.10 Meal requirements for lunches and requirements for afterschool snacks.

* * * * *

(c) * * *

	Lunch meal pattern		
	Grades K–5	Grades 6–8	Grades 9–12
Food Components	Amount of Food[a] per Week (minimum per day)		
Fruits (cups)[b]	2½ (½)	2½ (½)	5 (1)½
Vegetables (cups)[b]	3¾ (¾)	3¾ (¾)	5 (1)
Dark green[c]	½	½	½
Red/Orange[c]	¾	¾	1¼
Beans and peas (legumes)[c]	½	½	½
Starchy[c]	½	½	½
Other[c d]	½	½	¾
Additional Vegetables to Reach Total[e]	1	1	1½
Grains (oz eq)[f]	8–9 (1)	8–10 (1)	10–12 (2)
Meats/Meat Alternates (oz eq)	8–10 (1)	9–10 (1)	10–12 (2)
Fluid milk (cups)[g]	5 (1)	5 (1)	5 (1)
Other Specifications: Daily Amount Based on the Average for a 5-Day Week			
Min-max calories (kcal)[h]	550–650	600–700	750–850
Saturated fat (% of total calories)[h]	<10	<10	<10
Sodium Target 2 (mg)[h i]	≤935	≤1,035	≤1,080
Trans fat[h j]	Nutrition label or manufacturer specifications must indicate zero grams of *trans* fat per serving.		

[a] Food items included in each group and subgroup and amount equivalents. Minimum creditable serving is ⅛ cup.

[b] One quarter-cup of dried fruit counts as ½ cup of fruit; 1 cup of leafy greens counts as ½ cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.

[c] Larger amounts of these vegetables may be served.

[d] This category consists of ''Other vegetables'' as defined in paragraph (c)(2)(iii)(E) of this section. For the purposes of the NSLP, the ''Other vegetables'' requirement may be met with any additional amounts from the dark green, red/orange, and beans/peas (legumes) vegetable subgroups as defined in paragraph (c)(2)(iii) of this section.

[e] Any vegetable subgroup may be offered to meet the total weekly vegetable requirement.

[f] At least half of the grains offered weekly must be whole grain-rich as specified in FNS guidance, and the remaining grain items offered must be enriched.

[g] All fluid milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk may be unflavored or flavored provided that unflavored milk is offered at each meal service.

[h] The average daily calories for a 5-day school week menu must be within the range (at least the minimum and no more than the maximum values). Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, *trans* fat, and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent are not allowed.

[i] Sodium Target 1 is effective from July 1, 2014 (SY 2014–2015) through June 30, 2024 (SY 2023–2024). Sodium Target 2 (shown) is effective July 1, 2024 (SY 2024–2025).

[j] Food products and ingredients must contain zero grams of *trans* fat (less than 0.5 grams) per serving.

* * * * *

(2) * * *

(iv) * * *

(B) *Daily and weekly servings.* The grains component is based on minimum daily servings plus total servings over a 5-day school week. Schools serving lunch 6 or 7 days per week must increase the weekly grains quantity by approximately 20 percent (⅕) for each additional day. When schools operate less than 5 days per week, they may decrease the weekly quantity by approximately 20 percent (⅕) for each day less than 5. The servings for biscuits, rolls, muffins, and other grain/bread varieties are specified in FNS guidance. At least half of the grains offered weekly must meet the whole grain-rich criteria specified in FNS guidance, and the remaining grain items offered must be enriched.

* * * * *

(d) * * *

(1) * * *

(i) Schools must offer students a variety (at least two different options) of fluid milk. All milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk with higher fat content is not allowed. Low-fat or fat-free lactose-free and reduced-lactose fluid milk may also be offered. Milk may be unflavored or flavored provided that unflavored milk is offered at each meal service.

* * * * *

(f) * * *

(3) *Sodium.* School lunches offered to each age/grade group must meet, on average over the school week, the levels of sodium specified in the following table within the established deadlines:

National School Lunch Program	Sodium timeline & limits	
Age/grade group	Target 1: July 1, 2014 (SY 2014–2015) (mg)	Target 2: July 1, 2024 (SY 2024–2025) (mg)
K–5	≤1,230	≤935
6–8	≤1,360	≤1,035
9–12	≤1,420	≤1,080

* * * * *

§ 210.11 [Amended]

■ 3. In § 210.11, in paragraphs (m)(1)(ii), (m)(2)(ii), and (m)(3)(ii), remove the words ''from July 1, 2018 through June 30, 2019, school year 2018–2019'' before the semicolon.

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

■ 4. The authority citation for part 215 continues to read as follows:

Authority: 42 U.S.C. 1772 and 1779.

§ 215.7a [Amended]

■ 5. In § 215.7a, in paragraph (a)(3), remove the words ''from July 1, 2018 through June 30, 2019 (school year 2018–2019)''.

PART 220—SCHOOL BREAKFAST PROGRAM

■ 6. The authority citation for part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 7. In § 220.8:

■ a. In paragraph (c) introductory text, revise the table; and

■ b. Revise paragraphs (c)(2)(iv)(B), (d), and (f)(3).

The revisions read as follows:

§ 220.8 Meal requirements for breakfasts.

* * * * *

(c) * * *

	Breakfast meal pattern		
	Grades K–5	Grades 6–8	Grades 9–12
Food Components	Amount of Food[a] per Week (minimum per day)		
Fruits (cups)[b c]	5 (1)	5 (1)	5 (1)
Vegetables (cups)[b c]	0	0	0
Dark green	0	0	0
Red/Orange	0	0	0
Beans and peas (legumes)	0	0	0
Starchy	0	0	0
Other	0	0	0
Grains (oz eq)[d]	7–10 (1)	8–10 (1)	9–10 (1)
Meats/Meat Alternates (oz eq)[e]	0	0	0
Fluid milk (cups)[f]	5 (1)	5 (1)	5 (1)
Other Specifications: Daily Amount Based on the Average for a 5-Day Week			
Min-max calories (kcal)[g h]	350–500	400–550	450–600
Saturated fat (% of total calories)[h]	<10	<10	<10
Sodium Target 2 (mg)[h i]	≤485	≤535	≤570
Trans fat[h j]	Nutrition label or manufacturer specifications must indicate zero grams of *trans* fat per serving.		

[a] Food items included in each group and subgroup and amount equivalents. Minimum creditable serving is ⅛ cup.

[b] One quarter cup of dried fruit counts as ½ cup of fruit; 1 cup of leafy greens counts as ½ cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.

[c] Schools must offer 1 cup of fruit daily and 5 cups of fruit weekly. Vegetables may be substituted for fruits, but the first two cups per week of any such substitution must be from the dark green, red/orange, beans and peas (legumes) or ''Other vegetables'' subgroups, as defined in § 210.10(c)(2)(iii) of this chapter.

[d] At least half of the grains offered weekly must be whole grain-rich as specified in FNS guidance, and the remaining grain items offered must be enriched. Schools may substitute 1 oz. eq. of meat/meat alternate for 1 oz. eq. of grains after the minimum daily grains requirement is met.

[e] There is no meat/meat alternate requirement.

[f] All fluid milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk may be unflavored or flavored provided that unflavored milk is offered at each meal service.

[g] The average daily calories for a 5-day school week menu must be within the range (at least the minimum and no more than the maximum values).

[h] Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, *trans* fat, and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent milk fat are not allowed.
[i] Sodium Target 1 is effective from July 1, 2014 (SY 2014–2015) through June 30, 2024 (SY 2023–2024). Sodium Target 2 (shown) is effective July 1, 2024 (SY 2024–2025).
[j] Food products and ingredients must contain zero grams of *trans* fat (less than 0.5 grams) per serving.

* * * * *

(2) * * *

(iv) * * *

(B) *Daily and weekly servings.* The grains component is based on minimum daily servings plus total servings over a 5-day school week. Schools serving breakfast 6 or 7 days per week must increase the weekly grains quantity by approximately 20 percent (⅕) for each additional day. When schools operate less than 5 days per week, they may decrease the weekly quantity by approximately 20 percent (⅕) for each day less than 5. The servings for biscuits, rolls, muffins, and other grain/bread varieties are specified in FNS guidance. At least half of the grains offered weekly must meet the whole grain-rich criteria specified in FNS guidance, and the remaining grain items offered must be enriched.

* * * * *

(d) *Fluid milk requirement.* Breakfast must include a serving of fluid milk as a beverage or on cereal or used in part for each purpose. Schools must offer students a variety (at least two different options) of fluid milk. All fluid milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk with higher fat content is not allowed. Low-fat or fat-free lactose-free and reduced-lactose fluid milk may also be offered. Milk may be unflavored or flavored provided that unflavored milk is offered at each meal service. Schools must also comply with other applicable fluid milk requirements in § 210.10(d)(1) through (4) of this part.

* * * * *

(f) * * *

(3) *Sodium.* School breakfasts offered to each age/grade group must meet, on average over the school week, the levels of sodium specified in the following table within the established deadlines:

School breakfast program Age/grade group	Sodium timeline & limits	
	Target 1: July 1, 2014 (SY 2014–2015) (mg)	Target 2: July 1, 2024 (SY 2024–2025) (mg)
K–5	≤540	≤485
6–8	≤600	≤535
9–12	≤640	≤570

* * * * *

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 8. The authority citation for part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

■ 9. In § 226.20:

■ a. In paragraphs (a)(1)(iii) and (iv), remove the words ''from July 1, 2018, through June 30, 2019 (school year 2018–2019)''; and

■ b. Revise the tables in paragraphs (c)(1) through (3).

The revisions read as follows:

§ 226.20 Requirements for meals.

* * * * *

(c) * * *

(1) * * *

CHILD AND ADULT CARE FOOD PROGRAM—BREAKFAST

Food components and food items [1]	Minimum quantities				
	Ages 1–2	Ages 3–5	Ages 6–12	Ages 13–18 [2] (at-risk afterschool programs and emergency shelters)	Adult participants
Select the Appropriate Components for a Reimbursable Meal					
Fluid Milk [3]	4 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces	8 fluid ounces.
Vegetables, fruits, or portions of both [4].	¼ cup	½ cup	½ cup	½ cup	½ cup.
Grains (oz eq): [5 6 7]					
Whole grain-rich or enriched bread.	½ slice	½ slice	1 slice	1 slice	2 slices.
Whole grain-rich or enriched bread product, such as biscuit, roll, or muffin.	½ serving	½ serving	1 serving	1 serving	2 servings.
Whole grain-rich, enriched, or fortified cooked breakfast cereal [8], cereal grain, and/or pasta.	¼ cup	¼ cup	½ cup	½ cup	1 cup.
Whole grain-rich, enriched or fortified ready-to-eat breakfast cereal (dry, cold) [8 9].					
Flakes or rounds	½ cup	½ cup	1 cup	1 cup	2 cups.
Puffed cereal	¾ cup	¾ cup	1¼ cup	1¼ cup	2½ cup.
Granola	⅛ cup	⅛ cup	¼ cup	¼ cup	½ cup.

Endnotes:

[1] Must serve all three components for a reimbursable meal. Offer versus serve is an option for at-risk afterschool participants.

[2] Larger portion sizes than specified may need to be served to children 13 through 18 years old to meet their nutritional needs.

[3] Must be unflavored whole milk for children age one. Must be unflavored low-fat (1 percent fat or less) or unflavored fat-free (skim) milk for children two through five years old. Must be low-fat (1 percent fat or less) or fat-free (skim) milk for children six years old and older and adults, and may be unflavored or flavored. For adult participants, 6 ounces (weight) or ¾ cup (volume) of yogurt may be used to meet the equivalent of 8 ounces of fluid milk once per day when yogurt is not served as a meat alternate in the same meal.

[4] Pasteurized full-strength juice may only be used to meet the vegetable or fruit requirement at one meal, including snack, per day.

[5] At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count towards meeting the grains requirement.

[6] Meat and meat alternates may be used to meet the entire grains requirement a maximum of three times a week. One ounce of meat and meat alternates is equal to one ounce equivalent of grains.

[7] Beginning October 1, 2019, ounce equivalents are used to determine the quantity of creditable grains.

[8] Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

[9] Beginning October 1, 2019, the minimum serving size specified in this section for ready-to-eat breakfast cereals must be served. Until October 1, 2019, the minimum serving size for any type of ready-to-eat breakfast cereal is ¼ cup for children ages 1–2; ⅓ cup for children ages 3–5; ¾ cup for children ages 6–12, and 1 ½ cups for adult participants.

(2) * * *

CHILD AND ADULT CARE FOOD PROGRAM—LUNCH AND SUPPER

Food components and food items [1]	Minimum quantities				
	Ages 1–2	Ages 3–5	Ages 6–12	Ages 13–18 [2] (at-risk afterschool programs and emergency shelters)	Adult participants
Select the Appropriate Components for a Reimbursable Meal					
Fluid Milk [3]	4 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces	8 fluid ounces. [4]
Meat/meat alternates (edible portion as served):					
Lean meat, poultry, or fish	1 ounce	1½ ounces	2 ounces	2 ounces	2 ounces.
Tofu, soy products, or alternate protein products [5].	1 ounce	1½ ounces	2 ounces	2 ounces	2 ounces.
Cheese	1 ounce	1½ ounces	2 ounces	2 ounces	2 ounces.
Large egg	½	¾	1	1	1.
Cooked dry beans or peas	¼ cup	⅜ cup	½ cup	½ cup	½ cup.
Peanut butter or soy nut butter or other nut or seed butters.	2 Tbsp	3 Tbsp	4 Tbsp	4 Tbsp	4 Tbsp.
Yogurt, plain or flavored unsweetened or sweetened [6].	4 ounces or ½ cup.	6 ounces or ¾ cup.	8 ounces or 1 cup	8 ounces or 1 cup	8 ounces or 1 cup.
The following may be used to meet no more than 50% of the requirement:					
Peanuts, soy nuts, tree nuts, or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternates (1 ounce of nuts/seeds = 1 ounce of cooked lean meat, poultry, or fish).	½ ounce = 50%	¾ ounce = 50%	1 ounce = 50%	1 ounce = 50%	1 ounce = 50%.
Vegetables [7]	⅛ cup	¼ cup	½ cup	½ cup	½ cup.
Fruits [7 8]	⅛ cup	¼ cup	¼ cup	¼ cup	½ cup.
Grains (oz eq): [9 10]					
Whole grain-rich or enriched bread.	½ slice	½ slice	1 slice	1 slice	2 slices.
Whole grain-rich or enriched bread product, such as biscuit, roll, or muffin.	½ serving	½ serving	1 serving	1 serving	2 servings.
Whole grain-rich, enriched, or fortified cooked breakfast cereal [11], cereal grain, and/or pasta.	¼ cup	¼ cup	½ cup	½ cup	1 cup.

Endnotes:

[1] Must serve all five components for a reimbursable meal. Offer versus serve is an option for at-risk afterschool and adult participants.

[2] Larger portion sizes than specified may need to be served to children 13 through 18 years old to meet their nutritional needs.

[3] Must be unflavored whole milk for children age one. Must be unflavored low-fat (1 percent fat or less) or unflavored fat-free (skim) milk for children two through five years old. Must be low-fat (1 percent fat or less) or fat-free (skim) milk for children six years old and older and adults, and may be unflavored or flavored. For adult participants, 6 ounces (weight) or ¾ cup (volume) of yogurt may be used to meet the equivalent of 8 ounces of fluid milk once per day when yogurt is not served as a meat alternate in the same meal.

[4] A serving of fluid milk is optional for suppers served to adult participants.

[5] Alternate protein products must meet the requirements in Appendix A to part 226 of this chapter.

[6] Yogurt must contain no more than 23 grams of total sugars per 6 ounces.
[7] Pasteurized full-strength juice may only be used to meet the vegetable or fruit requirement at one meal, including snack, per day.
[8] A vegetable may be used to meet the entire fruit requirement. When two vegetables are served at lunch or supper, two different kinds of vegetables must be served.
[9] At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count towards the grains requirement.
[10] Beginning October 1, 2019, ounce equivalents are used to determine the quantity of the creditable grain.
[11] Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

(3) * * *

CHILD AND ADULT CARE FOOD PROGRAM—SNACK

Food components and food items [1]	Minimum quantities				
	Ages 1–2	Ages 3–5	Ages 6–12	Ages 13–18 [2] (at-risk afterschool programs and emergency shelters)	Adult participants
Select Two of the Five Components for a Reimbursable Meal					
Fluid Milk [3]	4 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces	8 fluid ounces.
Meat/meat alternates (edible portion as served):					
Lean meat, poultry, or fish	½ ounce	½ ounce	1 ounce	1 ounce	1 ounce.
Tofu, soy products, or alternate protein products [4].	½ ounce	½ ounce	1 ounce	1 ounce	1 ounce.
Cheese	½ ounce	½ ounce	1 ounce	1 ounce	1 ounce.
Large egg	½	½	½	½	½.
Cooked dry beans or peas	⅛ cup	⅛ cup	¼ cup	¼ cup	¼ cup.
Peanut butter or soy nut butter or other nut or seed butters.	1 Tbsp	1 Tbsp	2 Tbsp	2 Tbsp	2 Tbsp.
Yogurt, plain or flavored unsweetened or sweetened [5].	2 ounces or ¼ cup.	2 ounces or ¼ cup.	4 ounces or ½ cup.	4 ounces or ½ cup.	4 ounces or ½ cup.
Peanuts, soy nuts, tree nuts, or seeds.	½ ounce	½ ounce	1 ounce	1 ounce	1 ounce.
Vegetables [6]	½ cup	½ cup	¾ cup	¾ cup	½ cup.
Fruits [6]	½ cup	½ cup	¾ cup	¾ cup	½ cup.
Grains (oz eq): [7] [8]					
Whole grain-rich or enriched bread.	½ slice	½ slice	1 slice	1 slice	1 slice.
Whole grain-rich or enriched bread product, such as biscuit, roll, or muffin.	½ serving	½ serving	1 serving	1 serving	1 serving.
Whole grain-rich, enriched, or fortified cooked breakfast cereal [9], cereal grain, and/or pasta.	¼ cup	¼ cup	½ cup	½ cup	½ cup.
Whole grain-rich, enriched, or fortified ready-to-eat breakfast cereal (dry, cold) [9] [10].					
Flakes or rounds	½ cup	½ cup	1 cup	1 cup	1 cup.
Puffed cereal	¾ cup	¾ cup	1¼ cup	1¼ cup	1¼ cup.
Granola	⅛ cup	⅛ cup	¼ cup	¼ cup	¼ cup.

ENDNOTES:
[1] Select two of the five components for a reimbursable snack. Only one of the two components may be a beverage.
[2] Larger portion sizes than specified may need to be served to children 13 through 18 years old to meet their nutritional needs.
[3] Must be unflavored whole milk for children age one. Must be unflavored low-fat (1 percent fat or less) or unflavored fat-free (skim) milk for children two through five years old. Must be low-fat (1 percent fat or less) or fat-free (skim) milk for children six years old and older and adults, and may be unflavored or flavored. For adult participants, 6 ounces (weight) or ¾ cup (volume) of yogurt may be used to meet the equivalent of 8 ounces of fluid milk once per day when yogurt is not served as a meat alternate in the same meal.
[4] Alternate protein products must meet the requirements in Appendix A to Part 226 of this chapter.
[5] Yogurt must contain no more than 23 grams of total sugars per 6 ounces.
[6] Pasteurized full-strength juice may only be used to meet the vegetable or fruit requirement at one meal, including snack, per day.
[7] At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count towards the grains requirement.
[8] Beginning October 1, 2019, ounce equivalents are used to determine the quantity of the creditable grains.
[9] Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).
[10] Beginning October 1, 2019, the minimum serving size specified in this section for ready-to-eat breakfast cereals must be served. Until October 1, 2019, the minimum serving size for any type of ready-to-eat breakfast cereal is ¼ cup for children ages 1–2; ⅓ cup for children ages 3–5; and ¾ cup for children ages 6–12, children ages 13–18, and adult participants.

* * * * *

Dated: December 6, 2018.

Brandon Lipps,

Acting Deputy Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 2018–26762 Filed 12–11–18; 8:45 am]

BILLING CODE 3410–30–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2018–0221]

RIN 3150–AK18

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM 100 Multipurpose Canister Cask System, Certificate of Compliance No. 1014, Amendment Nos. 11 and 12

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the Holtec International HI–STORM 100 Multipurpose Canister Cask System (HI–STORM 100 System) listing within the ''List of approved spent fuel storage casks'' to include Amendment Nos. 11 and 12 to Certificate of Compliance No. 1014. Amendment Nos. 11 and 12 revise multiple items in the Technical Specifications for multi-purpose canister models listed under Certificate of Compliance No. 1014; most of these revisions involve changes to the authorized contents. In addition, Amendment No. 11 makes several other editorial changes.

DATES: This direct final rule is effective February 25, 2019, unless significant adverse comments are received by January 11, 2019. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register** (FR). Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the FR.

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

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0221. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Yen-Ju Chen, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–1018; email: *Yen-Ju.Chen@nrc.gov* or Vanessa Cox, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–8342; email: *Vanessa.Cox@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0221 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0221.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0221 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This rule is limited to the changes contained in Amendment Nos. 11 and No. 12 to Certificate of Compliance No. 1014 and does not include other aspects of the Holtec International HI-STORM 100 System design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing Certificate of Compliance that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendments to the rule will become

effective on February 25, 2019. However, if the NRC receives significant adverse comments on this direct final rule by January 11, 2019, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the FR. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, Certificate of Compliance, or Technical Specifications.

For detailed instructions on filing comments, please see the companion proposed rule published in the Proposed Rule section of this issue of the FR.

III. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR) entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on May 1, 2000 (65 FR 25241), that approved the Holtec International HI–STORM 100 System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1014.

IV. Discussion of Changes

Holtec International submitted a request to the NRC to amend Certificate of Compliance No. 1014 in a letter dated January 29, 2016, and supplemented its request on February 16, 2016; June 6, 2016; December 22, 2016; April 22, 2016; September 8, 2017; November 10, 2017; and December 21, 2017. This revised Certificate of Compliance was denoted as Amendment No. 11 to Certificate of Compliance No. 1014. The revisions to Amendment No. 11 involve the following changes to the authorized contents:

1. Increase the per-storage location weight limit for cells authorized for damaged fuel containers in multipurpose canisters (MPCs) MPC–68, MPC–68FF, and MPC–68M in the HI–STORM 100 storage system.

2. Change surveillance requirements for casks with certain heat loads as specified in the Technical Specifications.

3. Allow the storage of higher average initial enrichment weight percent uranium (U)-235 fuel with low enriched Chalk River unidentified deposits-induced localized corrosion fuel.

4. Increase the enrichment limit for 10x10G boiling water reactor fuel assemblies from 4.6 weight percent U-235 to 4.75 weight percent U-235.

5. Change the minimum soluble boron concentration limits for the 17x17A pressurized water reactor fuel assemblies in MPC–32.

6. Increase the burnup limit to accommodate non-fuel hardware consisting of neutron source assemblies in combination with other control components.

7. Add thoria rods/canister as contents for the MPC–68M.

8. Add a second permissible composition for thoria rods for all MPC–68 models. The new thoria rod composition is made of 98.5 weight percent thorium dioxide and 1.5 weight percent uranium oxide. The maximum enrichment of U-235 in uranium oxide is 93.5 weight percent.

Amendment No. 11 also makes the following editorial changes:

1. Clarify heat load limits and drying methods in Appendix A, Table 3–1.

2. Include NUREG–0612, ''Control of Heavy Loads at Nuclear Power Plants: Resolution of Generic Technical Activity A–36.'' as a basis for stress limits.

3. Remove manufacturer's tolerance in Appendix B, Tables 2.1–2 and 2.1–3.

4. Clarify dose evaluation for stainless steel replacement and dummy rods in Appendix B, Tables 2.1–2 and 2.1–3.

Holtec International submitted another request to the NRC to amend Certificate of Compliance No. 1014 in a letter dated June 14, 2016, and supplemented its request on July 22, 2016; November 4, 2016; August 25, 2017; November 10, 2017; and December 22, 2017. This revised Certificate of Compliance was denoted as Amendment No. 12 to Certificate of Compliance No. 1014. The revisions to Amendment No. 12 involve the following changes to the authorized contents:

1. Add a new regionalized quarter-symmetric heat load pattern for MPC–68M and allow fuel that has been cooled for at least 2 years to be stored in the MPC–68M.

2. Allow the storage of damaged fuel and fuel debris in damaged fuel containers under the new regionalized quarter-symmetric heat load pattern.

3. Add a new duplex stainless steel as an allowed material for the MPC confinement boundary in the HI–STORM 100 system.

4. Add cyclic vacuum drying for all MPCs.

5. Update coefficients for burnup calculation equations for fuel assemblies with cooling time of 2 through 40 years.

As documented in the Preliminary Safety Evaluation Reports for Amendment Nos. 11 and 12, the NRC performed detailed safety evaluations of the Certificate of Compliance amendment requests. There are no significant changes to cask design requirements in the Certificate of

Compliance amendments. Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control in the event of an accident. These amendments do not reflect a significant change in design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment Nos. 11 and 12 would remain well within the 10 CFR part 20 limits. There will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

This direct final rule revises the Holtec International HI–STORM 100 System listing in § 72.214 by adding Amendment Nos. 11 and 12 to Certificate of Compliance No. 1014. The amendments consist of the changes previously described, as set forth in the revised Certificate of Compliance and Technical Specifications. The revised technical specifications are identified in the preliminary safety evaluation report.

The amended Holtec International HI–STORM 100 cask design, when used under the conditions specified in the Certificate of Compliance, the Technical Specifications, and NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into Holtec International HI–STORM 100 System casks that meet the criteria of Amendment Nos. 11 and 12 to Certificate of Compliance No. 1014.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the Holtec International HI–STORM 100 System design listed in § 72.214. This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR. Although an Agreement State may not adopt program elements reserved to the NRC, and the Category ''NRC'' does not confer regulatory authority on the State, the State may wish to inform its licensees of certain requirements by means consistent with the particular State's administrative procedure laws.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

VIII. Environmental Assessment and Finding of No Significant Environmental Impact

A. The Action

The action is to amend § 72.214 to revise the Holtec International HI–STORM 100 System listing within the ''List of approved spent fuel storage casks'' to include Amendment Nos. 11 and 12 to Certificate of Compliance No. 1014. Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

B. The Need for the Action

This direct final rule amends the Certificate of Compliance for the Holtec International HI–STORM 100 System design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. Specifically, Amendment Nos. 11 and 12 update the Certificate of Compliance as described in Section IV, ''Discussion of Changes,'' of this document, for the use of the Holtec International HI–STORM 100 System.

C. Environmental Impacts of the Action

On July 18,1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was initially analyzed in the environmental assessment for the 1990 final rule. The environmental assessments for Amendment Nos. 11 and 12 tier off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

The Holtec International HI–STORM 100 System is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of confinement, shielding, and criticality control in the event of an accident. If there is no loss of confinement, shielding, or criticality control, the environmental impacts resulting from an accident would be insignificant. These amendments do not reflect a significant change in design or fabrication of the cask.

There are no significant changes to cask design requirements in the Certificate of Compliance amendments. In addition, because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment Nos. 11 and 12 would remain well within the 10 CFR part 20 limits. Therefore, the

Certificate of Compliance changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation reports for Amendment Nos. 11 and 12.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment Nos. 11 and 12 and end the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into a Holtec International HI–STORM 100 System cask in accordance with the changes described in Amendment Nos. 11 and 12 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. Therefore, the environmental impacts would be the same or less than the proposed action.

E. Alternative Use of Resources

Approval of Amendment Nos. 11 and 12 to Certificate of Compliance No. 1014 would result in no irreversible commitment of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51. Based on the foregoing environmental assessment, the NRC concludes that this direct final rule entitled, ''List of Approved Spent Fuel Storage Casks: HOLTEC International HI–STORM 100 Multipurpose Canister Cask System,'' will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and Holtec International. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's Certificate of Compliance, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On May 1, 2000 (65 FR 25241), the NRC issued an amendment to 10 CFR part 72 that approved the Holtec International HI–STORM 100 System design by adding it to the list of NRC-approved cask designs in § 72.214.

On January 29, 2016, (supplemented on February 16, 2016; June 6, 2016; December 22, 2016; April 22, 2016; September 8, 2017; November 10, 2017; and December 21, 2017) and June 14, 2016, (supplemented on July 22, 2016; November 4, 2016; August 25, 2017; November 10, 2017; and December 22, 2017, Holtec International submitted applications to amend the HI–STORM 100 System as described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Amendment Nos. 11 and 12 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into a Holtec International HI–STORM 100 System cask under the changes described in Amendment Nos. 11 and 12 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation reports and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and therefore, this action is recommended.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (§ 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises Certificate of Compliance No. 1014 for the Holtec International HI–STORM 100 System, as currently listed in § 72.214, ''List of approved spent fuel storage casks.'' The revision consists of adding Amendment Nos. 11 and 12, which revise the Certificate of Compliance's Technical Specifications as described in Section IV, ''Discussion of Changes,'' of this document.

Amendment Nos. 11 and 12 to Certificate of Compliance No. 1014 for the Holtec International HI–STORM 100 System were initiated by Holtec International and were not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment Nos. 11 and 12 apply only to new casks fabricated and used under Amendment Nos. 11 and 12. These changes do not affect existing users of the Holtec International HI–STORM 100 System, and the current Amendment

No. 10 continues to be effective for existing users. While current Certificate of Compliance users may comply with the new requirements in Amendment Nos. 11 and 12, this would be a voluntary decision on the part of current users.

For these reasons, Amendment Nos. 11 and 12 to Certificate of Compliance No. 1014 do not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No./weblink/ **Federal Register** citation
Subpart K of 10 CFR part 72, ''General License for Storage of Spent Fuel at Power Reactor Sites''	55 FR 29181
10 CFR part 72, ''List of Approved Spent Fuel Storage Casks: Holtec HI–STORM 100 Addition''	65 FR 25241
Letter from Holtec International to NRC, ''Holtec International HI–STORM 100 Multipurpose Canister Storage System Amendment Request 1014–11'' dated January 29, 2016	ML16029A528
Letter from Holtec International to NRC, ''Supporting Information for License Amendment Request 11 (1014–11) to the HI–STORM 100 CoC'' dated February 16, 2016. (This letter contains five enclosures, and Enclosures 1 through 4 are proprietary information and not publicly available.)	ML16069A246
Letter from Holtec International to NRC, ''Transmittal of Requests for Supplemental Information Responses Supporting HI–STORM 100 License Amendment Request 1014–11'' dated June 6, 2016	ML16159A344
Letter from Holtec International to NRC, ''Submittal of Responses to NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated December 22, 2016	ML17005A236
Letter from Holtec International to NRC, ''Modification to Requested Changes on HI–STORM 100 Amendment 11 Request'' dated April 22, 2016	ML16113A394
Letter from Holtec International to NRC, ''Submittal of Responses to NRC's 2nd Round Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated September 8, 2017	ML17261A159
Letter from Holtec International to NRC, ''Submittal of Supplemental Information on NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated November 10, 2017. (This package contains nine attachments, and Attachments 1, 6, 7, and 8 are proprietary information and not publicly available.)	ML17325A555
Letter from Holtec International to NRC, ''Submittal of Revised Supplemental Information on NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated December 21, 2017	ML17362A113
User Need Memorandum for Rulemaking for the Holtec International HI–STORM 100 Cask System, Amendment 11	ML18141A568
Proposed Certificate of Compliance 1014, Amendment 11, Certificate of Compliance for Spent Fuel Storage Casks	ML18141A561
Proposed Certificate of Compliance 1014, Amendment 11, Technical Specifications, Appendix A	ML18141A562
Proposed Certificate of Compliance 1014, Amendment 11, Approved Contents and Design Features, Appendix B	ML18141A563
Proposed Certificate of Compliance 1014, Amendment 11, Technical Specifications, Appendix A–100U	ML18141A564
Proposed Certificate of Compliance 1014, Amendment 11, Approved Contents and Design Features, Appendix B–100U	ML18141A565
Certificate of Compliance 1014, Amendment 11, Preliminary Safety Evaluation Report	ML18141A567
Letter from Holtec International to NRC, ''Holtec International HI–STORM 100 Multipurpose Canister Storage System Amendment Request 1014–12'' dated June 14, 2016	ML16169A363
Letter from Holtec International to NRC, ''Holtec International HI–STORM 100 Multipurpose Canister Storage System Amendment Request 1014–12 Supporting Calculation Packages'' dated July 22, 2016. (This package contains four attachments, and Attachments 1 through 3 are proprietary information and not publicly available.)	ML16210A133
Letter from Holtec International to NRC, ''HI–STORM 100 Amendment 12 Responses to Requests for Supplemental Information'' dated November 4, 2016. (This package contains five attachments, and Attachment 4 is proprietary information and not publicly available.)	ML16313A216
Holtec International Final Safety Analysis Report for the HI–STORM 100 Cask System, Revision 13 dated March 31, 2016	ML16138A100
Letter from Holtec International to NRC, ''Submittal of Responses to NRC's Requests for Additonal Information for HI–STORM 100 License Amendment Request 1014–12'' dated August 25, 2017. (This package contains 13 attachments, and Attachments 1, 5, 7, 8, 9, 10, 11, and 12 are proprietary information and not publicly available.)	ML17251A739
Letter from Holtec International to NRC, ''Submittal of Responses to NRC's 2nd Round Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated September 8, 2017. (This package contains seven attachments, and Attachments 1, 5, and 6 are proprietary information and not publicly available.)	ML17261A159
Letter from Holtec International to NRC, ''Submittal of Supplemental Information on NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–12'' dated November 10, 2017. (This package contains six attachments, and Attachment 1 is proprietary information and not publicly available.)	ML17326A174
Letter from Holtec International to NRC, ''Submittal of Revised Supplemental Information on NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–12'' dated December 22, 2017	ML17362A130
User Need Memorandum for Rulemaking for the Holtec International HI–STORM 100 Cask System, Amendment 12	ML18087A056
Proposed Certificate of Compliance 1014, Amendment 12, Certificate of Compliance for Spent Fuel Storage Casks	ML18087A057
Proposed Certificate of Compliance 1014, Amendment 12, Technical Specifications, Appendix A	ML18087A058
Proposed Certificate of Compliance 1014, Amendment 12, Approved Contents and Design Features, Appendix B	ML18087A059
Proposed Certificate of Compliance 1014, Amendment 12, Technical Specifications, Appendix A–100U	ML18087A060
Proposed Certificate of Compliance 1014, Amendment 12, Approved Contents and Design Features, Appendix B–100U	ML18087A061
Certificate of Compliance 1014, Amendment 12, Preliminary Safety Evaluation Report	ML18087A062

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2018–0221. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2018–0221); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170); superseded by Amendment Number 8, Revision 1, Effective Date: February 16, 2016.

Amendment Number 8, Revision 1, Effective Date: February 16, 2016.

Amendment Number 9 Effective Date: March 11, 2014, superseded by Amendment Number 9, Revision 1, on March 21, 2016.

Amendment Number 9, Revision 1, Effective Date: March 21, 2016, as corrected (ADAMS Accession No. ML17236A451).

Amendment Number 10 Effective Date: May 31, 2016, as corrected (ADAMS Accession No. ML17236A452).

Amendment Number 11 Effective Date: February 25, 2019.

Amendment Number 12 Effective Date: February 25, 2019.

Safety Analysis Report Submitted by: Holtec International.

Safety Anaylsis Report Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated at Rockville, Maryland, this 29th day of November 2018.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2018–26877 Filed 12–11–18; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0584; Product Identifier 2017–NM–173–AD; Amendment 39–19494; AD 2018–23–08]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus SAS Model A330–200, A330–200 Freighter, and A330–300 series airplanes. This AD was prompted by reports of dual flight management system (FMS) resets with the loss of flight plan (F–PLN) data. This AD requires revising the airplane flight manual (AFM) to prohibit required navigation performance-authorization required (RNP–AR) operations using flight management guidance envelope computer (FMGEC) standard P5H3. This AD would also require modifying the FMS software of airplanes equipped with FMGEC standard P5H3. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 16, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 16, 2019.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards 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 *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0584.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0584; 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, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A330–200, A330–200 Freighter, and A330–300 series airplanes. The NPRM published in the **Federal Register** on July 18, 2018 (83 FR 33873). The NPRM was prompted by reports of dual FMS resets with the loss of F–PLN data. The NPRM proposed to require revising the AFM to prohibit RNP–AR operations using FMGEC standard P5H3. The NPRM also proposed to require modifying the FMS software of airplanes equipped with FMGEC standard P5H3.

We are issuing this AD to address dual FMS reset and loss of F–PLN data, which in the context of RNP–AR operations of the airplane could result in significantly reduced situational awareness of proximity to terrain and/or other aircraft to below acceptable safety margins, and out of the context of RNP–AR operations could lead to an unusually high pilot workload.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0233, dated November 23, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A330–200, Model A330–200 Freighter, and Model A330–300 series airplanes. The MCAI states:

> Operators of [Airbus SAS Model] A330 aeroplanes fitted with a Flight Management Guidance Envelope Computer (FMGEC) standard P5H3 have reported some occurrences of dual Flight Management System (FMS) reset with the loss of Flight Plan (F–PLN) data. These events have been identified in all flight phases, including Take-Off transition.
>
> This condition, if not corrected, particularly in the context of Required Navigation Performance—Authorization Required (RNP–AR) operations of the aeroplane, could lead to a large reduction in safety margins due to terrain and/or surrounded traffic proximity [below acceptable safety margins], and out of the context of RNP–AR operations could lead to an increased pilot workload.
>
> To address this potential unsafe condition, Airbus issued Aircraft Flight Manual (AFM) Temporary Revision (TR) 774 issue 1 [approved October 13, 2017, to the Airbus A330/A340 Airplane Flight Manual] to provide instructions to prohibit RNP–AR operations. In addition, Airbus developed modification (mod) 207362 to allow FMS software downgrading from P5 to P4A standard, and issued [Airbus SAS] Alert Operator Transmission (AOT) A22L002–17 providing instructions to implement that mod on in-service aeroplanes. As a long term action, Airbus intend to publish Service Bulletin (SB) A330–22–3264, which will supersede AOT A22L002–17 [dated October 20, 2017], to provide the same instructions for FMS software downgrade.
>
> For the reasons described above, this [EASA] AD requires amendment of the applicable AFM and operating the aeroplane accordingly, and requires FMS software downgrading of aeroplanes with FMGEC standard P5H3.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0584.

Comments

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

Support for the NPRM

Air Line Pilots Association, International (ALPA) stated its support for the NPRM.

Request To Revise Applicability

Delta Air Lines (DAL) requested that we revise the applicability of the proposed AD to state that the AD is not effective for airplanes that have a Thales FMS installed. DAL justified the request by stating that the applicability of the proposed AD was too general, and removing airplanes with a Thales FMS installed from the applicability would not result in a decrease in safety, because the action is intended only for airplanes with a Honeywell FMS installed.

We disagree with DAL's request because FMGEC standard P5H3 can be embodied in production or in service on both Thales and Honeywell FMS. Further, this AD requires modification of Groups 1 and 2 airplanes in accordance with Airbus Service Bulletin A330–22–3264, dated March 14, 2018, which requires prior or simultaneous accomplishment of prerequisite Airbus SAS service information applicable to airplanes with a Honeywell FMS, Release 2, or a Thales flight guidance card. We have not changed this AD in this regard.

Request To Develop New Software Standard

ALPA suggested that a temporary downgrade of the FMS software from P5H3 standard to P4A standard is a short-term fix, and recommended that a new software standard be developed. ALPA contends that the new software standard should eliminate the potential of dual FMS resets, which could lead to loss of flight plan data, while incorporating the features of the advanced P5H3 standard.

We disagree with ALPA's request. The unsafe condition of dual FMS resets, which could lead to loss of flight plan data, was introduced by the FMS software P5H3 standard. The unsafe condition is eliminated by downgrading the FMS software to P4A standard, which is a permanent repair. The FAA acknowledges ALPA's recommendation, and we might consider further rulemaking on this issue if Airbus proposes new software. We have not changed the AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. We have 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 Service Information Under 1 CFR Part 51

Airbus SAS has issued Service Bulletin A330–22–3264, dated March 14, 2018. This service information describes procedures to downgrade the FMS from P5 to P4A operational software on FMGEC standard P5H3, by embodying Modification 207362S34542 on the affected airplanes.

Airbus SAS has issued A330/A340 AFM Temporary Revision TR774, RNP AR Operations Forbidden with FMGEC Standard P5H3, Issue 1, dated October 16, 2017, to the Airbus A330/A340 AFM. This service information describes the operational restrictions for

RNP–AR on Airbus SAS Model A330 series airplanes equipped with FMGEC standard P5H3.

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 Airbus A330/A340 Airplane Flight Manual (AFM) for the aircraft affected by this AD is required to be furnished with the aircraft, in accordance with 14 CFR 25.1581. Further, operators of the aircraft affected by this AD must operate in accordance with the limitations specified in the AFM, in accordance with 14 CFR 91.9.

Costs of Compliance

We estimate that this AD affects 3 airplanes of U.S. registry. We estimate 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
3 work-hours × $85 per hour = $255	$0	$255	$765

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 individuals. We do not control warranty coverage for affected individuals. As a result, we have included all known costs in our cost estimate.

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.

We are 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.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

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) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–23–08 Airbus SAS: Amendment 39–19494; Docket No. FAA–2018–0584; Product Identifier 2017–NM–173–AD.

(a) Effective Date

This AD is effective January 16, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A330–201, A330–202, A330–203, A330–223, A330–223F, A330–243, A330–243F, A330–301, A330–302, A330–303, A330–321, A330–322, A330–323, A330–341, A330–342, and A330–343 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto flight.

(e) Reason

This AD was prompted by reports of dual flight management system (FMS) resets with the loss of flight plan (F–PLN) data. We are issuing this AD to address dual FMS reset and loss of F–PLN data, which in the context of required navigation performance-authorization required (RNP–AR) operations of the airplane could result in significantly reduced situational awareness of proximity to terrain and/or other aircraft to below acceptable safety margins, and out of the context of RNP–AR operations could lead to an unusually high pilot workload.

(f) Compliance

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

(g) Definitions

For the purposes of this AD, the definitions in paragraphs (g)(1) through (g)(3) of this AD apply.

(1) Group 1 airplanes are those that have flight management guidance envelope computer (FMGEC) standard P5H3 (Airbus SAS Modification 204758 Part Number (P/N) FMGEC C13226HA07 with P/N FMS operational SW PS4087700–906) embodied in production, or embodied in service as specified in Airbus Service Bulletin A330–22–3209; Airbus Service Bulletin A330–22–3225; Airbus Service Bulletin A330–22–3244; Airbus Service Bulletin A330–22–3247; or Airbus Service Bulletin A330–22–3262; except those that have RNP–AR.

(2) Group 2 airplanes have the same configuration as those in Group 1, but in addition have RNP–AR (Airbus SAS Modification 203441, or Airbus SAS Modification 203442, or Airbus SAS Modification 200624) embodied in production or Airbus Service Bulletin A330–34–3262; Airbus Service Bulletin A330–34–

3308; or Airbus Service Bulletin A330–34–3345; embodied in service.

(3) Group 3 airplanes are those in any configuration other than that identified in paragraph (g)(1) or (g)(2) of this AD.

(h) Airplane Flight Manual (AFM) Revision

For Group 2 airplanes: Within 30 days after the effective date of this AD, revise the Limitations section of the Airbus A330/A340 AFM to include the information in Airbus A330/A340 AFM Temporary Revision TR774, RNP AR Operations Forbidden with FMGEC Standard P5H3, Issue 1, dated October 16, 2017 (''TR774''), and inform all flight crews, and, thereafter, operate the airplane accordingly, as specified in TR774. TR774 prohibits the RNP–AR operation on Airbus SAS Model A330 series airplanes equipped with FMGEC standard P5H3. Revising the AFM to include TR774 may be done by inserting a copy of TR774 in the AFM. When TR774 has been included in general revisions of the AFM, the general revisions may be inserted in the AFM, provided the relevant information in the general revision is identical to that in TR774, and TR774 may be removed.

Note 1 to paragraph (h) of this AD: The Airbus A330/A340 AFM for the aircraft affected by this AD is required to be furnished with the aircraft, in accordance with 14 CFR 25.1581. Further, operators of the aircraft affected by this AD must operate in accordance with the limitations specified in the AFM, in accordance with 14 CFR 91.9.

(i) FMS Software Modification

(1) For Group 1 and Group 2 airplanes: Within 60 days after the effective date of this AD, modify the airplane by installing FMS software P4A (P/N FMS operational SW PS4087700–905) on FMGEC standard P5H3 (P/N FMGEC C13226HA07 with P/N FMS operational SW PS4087700–906), in accordance with the instructions of Airbus Service Bulletin A330–22–3264, dated March 14, 2018.

(2) For Group 2 airplanes: After modification of an airplane as required by paragraph (i)(1) of this AD, the AFM revision required by paragraph (h) of this AD may be removed from the AFM of that airplane.

(j) Optional Modification

For Group 3 airplanes: From the effective date of this AD, it is allowed to modify any airplane into a Group 1 or Group 2 configuration, provided that, concurrently, that airplane is modified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–22–3264, dated March 14, 2018.

(k) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (i) of this AD and optional actions specified in paragraph (j) of this AD, if those actions were performed before the effective date of this AD using Airbus Alert Operators Transmission–AOT A22L002–17, dated October 20, 2017.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards 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 International Section, send it to the attention of the person identified in paragraph (m)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* 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.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (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):* If any service information contains procedures or tests that are identified as RC, those 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.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0233, dated November 23, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0584.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (n)(3) and (n)(4) of this AD.

(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.

(i) Airbus Service Bulletin A330–22–3264, dated March 14, 2018.

(ii) Airbus A330/A340 Airplane Flight Manual Temporary Revision TR774, RNP AR Operations Forbidden with FMGEC Standard P5H3, Issue 1, dated October 16, 2017.

(3) For Airbus SAS service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com*; internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on November 2, 2018.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–24685 Filed 12–11–18; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table for determining expected retirement ages for participants in pension plans undergoing distress or involuntary termination with valuation dates falling in 2019. This table is needed to compute the value of early retirement benefits and, thus, the total value of benefits under a plan.

DATES: This rule is effective January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Hilary Duke (*duke.hilary@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–326–4400, ext. 3839. (TTY users may call the Federal relay service toll-free at 1–800–

877–8339 and ask to be connected to 202–326–4400, ext. 3839.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under title IV. Guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued in accordance with subpart B of part 4044. In addition, when PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Under § 4044.51(b) of the asset allocation regulation, early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach ''unreduced retirement age'' (*i.e.,* the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by PBGC to reflect changes in the cost of living, etc.

Tables II–A, II–B, and II–C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends appendix D to replace Table I–18 with Table I–19 to provide an updated correlation, appropriate for calendar year 2019, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I–19 will be used to value benefits in plans with valuation dates during calendar year 2019.

PBGC has determined that notice of, and public comment on, this rule are impracticable and contrary to the public interest. Plan administrators need to be able to estimate accurately the value of plan benefits as early as possible before initiating the termination process. For that purpose, if a plan has a valuation date in 2019, the plan administrator needs the updated table being promulgated in this rule. Accordingly, PBGC finds that the public interest is best served by issuing this table expeditiously, without an opportunity for notice and comment, and that good cause exists for making the table set forth in this amendment effective less than 30 days after publication to allow as much time as possible to estimate the value of plan benefits with the proper table for plans with valuation dates in early 2019.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866 and Executive Order 13771.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4044

Employee benefit plans, Pension insurance.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. Appendix D to part 4044 is amended by removing Table I–18 and adding in its place Table I–19 to read as follows:

Appendix D to Part 4044—Tables Used To Determine Expected Retirement Age

TABLE I–19—SELECTION OF RETIREMENT RATE CATEGORY

[For valuation dates in 2019 [1]]

If participant reaches URA in year—	Participant's retirement rate category is—			
	Low [2] if monthly benefit at URA is less than—	Medium [3] if monthly benefit at URA is—		High [4] if monthly benefit at URA is greater than—
		From—	To—	
2020	655	655	2,767	2,767
2021	670	670	2,831	2,831
2022	686	686	2,896	2,896
2023	701	701	2,963	2,963
2024	718	718	3,031	3,031
2025	734	734	3,100	3,100
2026	751	751	3,172	3,172
2027	768	768	3,245	3,245
2028	786	786	3,319	3,319
2029 or later	804	804	3,396	3,396

[1] Applicable tables for valuation dates before 2019 are available on PBGC's website (*www.pbgc.gov*).
[2] Table II–A.
[3] Table II–B.
[4] Table II–C.

* * * * *

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs Pension Benefit Guaranty Corporation.

[FR Doc. 2018–26843 Filed 12–11–18; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–1081]

RIN 1625–AA00

Safety Zone; Rocket Debris Control and Removal Operations, Atlantic Ocean, Cape Canaveral, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a 1000-yard temporary moving safety zone around the Falcon 9 rocket in the Atlantic Ocean, in the vicinity of Port Canaveral Harbor, Cape Canaveral, FL. This safety zone is necessary to protect personnel, vessels, and the public from potential hazards associated with the control and removal of the rocket and any debris from navigable waters of the Atlantic Ocean. All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Jacksonville or a designated representative.

DATES: This rule is effective without actual notice from December 12, 2018 through December 28, 2018. For purposes of enforcement, actual notice will be used from December 5, 2018 through December 12, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–1081 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Rory Boyle, Sector Jacksonville, Waterways Management Division, U.S. Coast Guard; telephone (904) 714–7661, email *Rory.C.Boyle@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. On December 5, 2018, the Coast Guard determined that immediate action was necessary to protect life and property from the hazards associated with control and removal of a Falcon 9 rocket and any associated debris located in the Atlantic Ocean. Due to the emergent nature and increased safety risks associated with control and removal operations for the rocket, there is insufficient time to publish an NPRM and to receive public comments before the rulemaking is required. The regulation is necessary to provide for the safety of persons and vessels within a 1000-yard radius of the Falcon 9 rocket. For those reasons, it would be impracticable to publish an NPRM.

For the reasons discussed above, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Jacksonville (COTP) has determined that potential hazards associated with control and removal operations for the Falcon 9 rocket will be a safety concern for persons and vessels within a 1000-yard radius of the rocket. The purpose of this rule is to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during control and removal operations associated with the Falcon 9 rocket.

IV. Discussion of the Rule

This rule establishes a safety zone that will encompass all navigable waters of the Atlantic Ocean within a 1000-yard radius of a Falcon 9 rocket located at position 28°24.3 N 080°30.8 W, in the vicinity of Port Canaveral Harbor, Cape Canaveral, Florida. The safety zone will be enforced during control, movement, and removal operations associated with the Falcon 9 rocket from 7 p.m. on December 5, 2018 until 11:59 p.m. on December 28, 2018, unless sooner terminated by the COTP Jacksonville upon completion of the removal operations. The duration of the safety zone is intended to ensure the safety of persons, vessels, and the marine environment from potential hazards associated with rocket and debris movement control and removal operations. These operations include the use of towing vessels, divers and support vessels. There will be occasions during the operations when there will be divers in the water and the waterway will be obstructed by the associated vessels and equipment. No vessel or person will be permitted to enter, transit through, anchor in, or remain within the safety zone unless authorized by the COTP Jacksonville or designated representative. If authorization to enter, transit through, anchor in, or remain within the safety zone granted by the COTP Jacksonville or a designated representative, all persons and vessels receiving such authorization must transit at a minimum safe speed and must comply with the orders of the COTP Jacksonville or designated representative. The Coast Guard will provide notice and status of the safety zone by Broadcast Notice to Mariners or on-scene designated representatives.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day. Although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the COTP Jacksonville or a designated representative, vessel traffic will be able to safely operate in the surrounding area during the enforcement. Additionally, any persons or vessels may request authorization to enter, transit through, anchor in, or remain with the safety zone from the COTP Jacksonville or a designated representative. Moreover, the Coast Guard will provide notice of the safety zone to the local maritime community by Broadcast Notice to Mariners via VHF–FM marine channel 16 about 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'' comprised of small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry within navigable waters outlined in the Discussion of the Rule above. This rule is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of the DHS Instruction Manual 023–01–001–01, Rev. 01.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 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.T07–1081 to read as follows:

§ 165.T07–1081 Safety Zone; Rocket Debris Control and Removal Operations, Atlantic Ocean, Cape Canaveral, FL.

(a) *Regulated area.* The following regulated area is a moving safety zone: All waters of the Atlantic Ocean within a 1,000-yard radius around the Falcon 9 rocket and associated debris. The safety zone will start east of Port Canaveral Harbor, Cape Canaveral, Florida, in approximate position 28°24.3 N 080°30.8 W and transit with the rocket in the vicinity of Port Canaveral Harbor, Cape Canaveral, FL.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard

vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Jacksonville by telephone at (904) 714–7557, or a designated representative via VHF–FM radio channel 16, to request authorization. If authorization is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated representative.

(3) The Coast Guard will issue notice of the safety zone to the local maritime community via Broadcast Notice to Mariners via VHF–FM marine channel 16 or by on-scene designated representatives.

(d) *Enforcement.* This section will be enforced from 7:00 p.m. on December 5, 2018 until 11:59 p.m. on December 28, 2018, unless sooner terminated by the Captain of the Port Jacksonville upon completion of rocket and debris control and removal operations.

Dated: December 6, 2018.

T.C. Wiemers,

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

[FR Doc. 2018–26860 Filed 12–11–18; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 87

[WT Docket No. 01–289; FCC 18–155]

Aviation Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; lifting of stay.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopts a rule that prohibits the certification, and after a six-month transition period, the manufacture, importation, or sale of 121.5 MHz Emergency Locator Transmitters (ELTs), but declines to prohibit the use of 121.5 MHz ELTs. By accelerating the transition from 121.5 MHz ELTs to 406 MHz ELTs, this rule change will enhance the ability of search and rescue personnel to locate and bring aid to the victims of plane crashes.

DATES: The rule is effective January 11, 2019. The stay of § 87.195 is lifted effective January 11, 2019.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Jeffrey Tobias, *Jeff.Tobias@FCC.gov*, Wireless Telecommunications Bureau, (202) 418–1617, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Fourth Report and Order* in WT Docket No. 01–289, FCC 18–155, adopted on November 7, 2018, and released on November 8, 2018. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Washington, DC 20554. Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). To request materials in accessible formats for persons with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). The complete text is also available on the Commission's website at: *www.fcc.gov.*

1. Emergency Locator Transmitters (ELTs) are radio beacons that are carried on board aircraft and triggered in the event of a crash or other unplanned downing. The Commission authorizes these devices to serve as an effective locating aid for survival purposes. For years, the ELTs operated only at 121.5 MHz, with their transmissions monitored by an international satellite-based system (the Cospas-Sarsat system) that could determine their location over most of the world's major air and sea travel paths. By 2010, however, the Cospas-Sarsat system limited tracking of ELTs to a newer type operating primarily at 406 MHz, thus eroding the utility of the 121.5 MHz ELTs as an effective locating aid. By accelerating the transition to 406 MHz ELTs with the rule changes we adopt in this *Fourth Report and Order,* we will enhance the ability of search and rescue personnel to locate and bring aid to the victims of plane crashes.

2. Section 332 of the Communications Act of 1934, as amended (the Act), states that the Commission, ''[i]n taking actions to manage the spectrum to be made available for use by the private mobile services . . . shall consider . . . whether such actions will . . . promote the safety of life and property; [or] (2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands . . . .'' Section 303 of the Act further requires the Commission, pursuant to its licensing authority, to ''prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class.'' In concert with these direct statutory mandates, the Commission has an obligation to advance the goal ''of obtaining maximum effectiveness from the use of radio and wire communications in connection with safety of life and property.'' [1]

3. In furtherance of these statutory responsibilities, the Commission authorizes and regulates three types of satellite emergency radiobeacons: Emergency Position-Indicating Radiobeacons (EPIRBs),[2] Personal Locator Beacons (PLBs),[3] and ELTs.[4] ELTs are activated after an aircraft crash to alert search and rescue personnel of the incident and to identify the location of the aircraft and any survivors. Most aircraft, including most general aviation (GA) aircraft, are required by federal statute to carry an ELT.

4. The two types of ELT now in service are the 406 MHz ELT and the 121.5 MHz ELT.[5] 406 MHz ELTs transmit a 406 MHz digital distress signal containing information on the type of emergency, the country and identification code of the beacon, and

[1] The Act also mandates that the Commission ''encourage the larger and more effective use of radio in the public interest.'' In addition, the Act and its statutory predecessors, the Radio Acts of 1912 and 1927, have long reflected Congress's special concern about protecting the integrity of distress communications.

[2] EPIRBs are float-free emergency transmitters carried on marine vessels that alert maritime search and rescue authorities that the vessel is in distress.

[3] PLBs are emergency transmitters available to the general public to alert search and rescue personnel in case of a life-threatening emergency in a remote area.

[4] *See* 47 CFR 87.199.

[5] ELTs, like EPIRBs, were initially authorized to operate only on 121.5 MHz and (primarily for military use) on 243 MHz. In 1988, the Commission amended the part 80 rules to permit EPIRBs to operate on the frequency 406.025 MHz as well. In 1993, the Commission likewise authorized the use of 406.025 MHz by ELTs, noting that doing so had ''overwhelming support.'' PLBs have never been authorized to transmit a distress signal on 121.5 MHz, but only on 406.025 MHz.

other data to assist search and rescue operations; and a lower-powered homing signal on 121.5 MHz to guide search and rescue teams to the aircraft once they arrive in the general area. 121.5 MHz ELTs transmit an analog signal on 121.5 MHz containing only an audio alert, intended to serve both as a distress signal and a homing signal.[6]

5. As technology continues to evolve, the Commission must periodically reevaluate and, to the extent necessary, modify the requirements for services it regulates. Developments in the satellite monitoring framework used by EPIRBs and ELTs have undermined their reliance on 121.5 MHz as the key frequency that enables them to effectively perform the public safety functions for which they were authorized. More specifically, the Cospas-Sarsat satellite system[7] had formerly monitored both the 121.5 MHz and 406 MHz bands for EPIRBs and ELTs and had relayed distress alerts to the appropriate search and rescue authority. In 2000, however, Cospas-Sarsat announced that, beginning in 2009, it would cease monitoring 121.5 MHz because of reliability and false alert concerns with 121.5 MHz radiobeacons, and it urged 121.5 MHz radiobeacon users to switch to 406 MHz radiobeacons. The National Oceanic and Atmospheric Administration (NOAA), the U.S. Coast Guard (USCG), the U.S. Air Force, and the National Aeronautics and Space Administration (NASA)—which administer the Cospas-Sarsat system in the United States—also advised users to switch to 406 MHz radiobeacons.

6. Because of these developments, the Commission in 2002 modified the rules governing EPIRBs to phase out use of EPIRBs designed to transmit distress alerts on the 121.5 MHz frequency (121.5 MHz EPIRBs); certification of 121.5 MHz EPIRBs ceased immediately, sale and manufacture of 121.5 MHz EPIRBs was prohibited as of 2003, and use of 121.5 MHz EPIRBs was prohibited effective December 31, 2006.

7. The Commission in 2006 requested comment on actions it should take with regard to 121.5 MHz ELTs in light of the scheduled termination of Cospas-Sarsat monitoring of 121.5 MHz. Commenters generally supported a phase-out of 121.5 MHz ELTs.[8]

8. In 2010, after Cospas-Sarsat stopped monitoring 121.5 MHz, the Commission amended § 87.195 of the rules in the *Third Report and Order* (*3rd R&O*) (76 FR 17347, March 29, 2011) in this proceeding to prohibit the continued certification, manufacture, importation, sale, and use of 121.5 MHz ELTs.[9] After the *3rd R&O* was released in 2010, the Federal Aviation Administration (FAA) and the Aircraft Owners and Pilots Association (AOPA) asked the Commission to revisit its decision to prohibit 121.5 MHz ELTs.[10] In response to their concerns, the Commission stayed its amendment of § 87.195.

9. In the 2013 *Third Further Notice of Proposed Rule Making* (*3rd FNPRM*) (78 FR 6276, January 30, 2013) in this proceeding, the Commission requested additional comment on the appropriate regulatory treatment of 121.5 MHz ELTs.[11] Stating that it ''continue[d] to believe that a phase-out of 121.5 MHz ELTs is in the public interest'' based on the record established to that date, even as augmented by the information and arguments submitted after the release of the *3rd R&O,* the Commission proposed to prohibit further certification of new 121.5 MHz ELTs immediately and to prohibit any further manufacture, importation, or sale of 121.5 MHz ELTs one year after the effective date of the rule amendments. The Commission also sought comment on whether to prohibit the use of 121.5 MHz ELTs. It also asked whether it should grandfather continued use of installed 121.5 MHz ELTs only for a defined time period, and, if so, how long; or whether installed 121.5 MHz ELTs should be grandfathered indefinitely, so that GA aircraft owners and pilots would not have to replace their 121.5 MHz ELTs until the end of the equipment's useful life.

10. In addition, the Commission requested information on matters that had not been fully addressed by commenters prior to adoption of the *3rd R&O.* It requested data on the costs and benefits of a mandatory phase-out of 121.5 MHz ELTs, both for aircraft owners and pilots and for search and rescue agencies and personnel. It also asked for comment on the sufficiency of the inventory of 406 MHz ELTs to satisfy the expected demand if a transition to such equipment is mandated, on the residual safety benefits, if any, of 121.5 MHz ELTs, and on whether mandating a transition from 121.5 MHz to 406 MHz ELTs is warranted in light of the availability of alternative technologies that may provide similar or arguably greater safety benefits, such as Automatic Dependent Surveillance—Broadcast (ADS–B) service.[12]

11. In this *Fourth Report and Order,* we prohibit the certification and, after a six-month transitional period, the manufacture, importation, and sale of 121.5 MHz ELTs. This will accelerate the transition to 406 MHz ELTs and, as a consequence, enhance the ability of search and rescue personnel to locate and bring aid to the victims of plane crashes and provide safety benefits to search and rescue personnel as well as pilots and passengers.

12. *Certification.* As proposed in the *3rd FNPRM,* we prohibit certification of new models of 121.5 MHz ELTs as of the effective date of this *Fourth Report*

[6] The term ''121.5 MHz ELTs,'' as used here, refers only to ELTs designed to transmit the distress alert on the frequency 121.5 MHz. (Such ELTs are sometimes referred to as 121.5/243 MHz ELTs.) It does not include 406 MHz ELTs, notwithstanding that 406 MHz ELTs use 121.5 MHz for a homing signal, and we emphasize that nothing we do here prevents the certification, manufacture, importation, sale, or use of 406 MHz ELTs, or is intended to restrict the use of the 121.5 MHz frequency for homing.

[7] Cospas-Sarsat is an international satellite-based search and rescue system established by Canada, France, Russia, and the United States. Cospas is an acronym for a Russian phrase meaning space system for search and distress vessels. Sarsat stands for Search and Rescue Satellite Aided Tracking. ELTs also can be monitored by ground-based air traffic control facilities and by passing aircraft.

[8] The National Telecommunications and Information Administration (NTIA) and Federal Aviation Administration (FAA) stated that they generally supported the proposals in the *Second FNPRM* (71 FR 70710, December 6, 2006), but did not specifically address the issue of 121.5 MHz ELTs. Only one commenter opposed a phase-out of 121.5 MHz ELTs, arguing without elaboration that ''alternative ELT surveillance technology will emerge'' and stating that 406 MHz ELT prices were ''exorbitant.''

[9] The Commission concluded that the benefits of mandating a transition to 406 MHz ELTs outweighed the compliance costs, especially since the GA community had been on notice for ten years that satellite monitoring of 121.5 MHz would end.

[10] Both the FAA and AOPA said that 121.5 MHz ELTs retain safety value even after the termination of Cospas-Sarsat monitoring of the frequency, and expressed concern about the cost and availability of 406 MHz ELTs for those who would be required to replace a 121.5 MHz ELT.

[11] The initial pleading cycle required the filing of comments by March 1 and reply comments by March 18, 2013. The Wireless Telecommunications Bureau extended those deadlines to April 1 and May 2, 2013. The U.S. Department of Transportation (DOT) and the National Telecommunications and Information Administration (NTIA) separately filed comments after the close of the pleading cycle, which we will treat as *ex parte* presentations and accept into the record of this proceeding in the interest of having as complete a record as possible to inform our decisions.

[12] ADS–B service automatically broadcasts GPS-derived data on the location, velocity, altitude, heading, etc., of an ADS–B-equipped aircraft to other ADS–B-equipped aircraft and ground stations for distribution to air traffic control systems. ADS–B is the foundation of the Next Generation Air Transportation System, or NextGen, which is designed to transform the air traffic control system in United States airspace by shifting from reliance on ground radar and navigational aids to satellite-based tracking.

and Order.[13] Several commenters confirm that, as the Commission previously noted, there should be no new models of 121.5 MHz ELTs to certify because in 2012 the FAA canceled its Technical Standard Order for 121.5 MHz ELTs, which precludes approval of any new models. We agree with the National Telecommunications and Information Administration (NTIA) and ELT manufacturers that there is no reason to hold open the possibility of certifying new 121.5 MHz ELTs. Although some commenters oppose any measure that might restrict the availability of 121.5 MHz ELTs, including prohibiting the certification of new models of 121.5 MHz ELTs, they do not offer a rationale for allowing such continued certification.[14] Accordingly, we amend § 87.195 of our rules to discontinue such certification.

13. *Manufacture, importation, and sale.* We will prohibit the manufacture, importation, and sale of 121.5 MHz ELTs, beginning six months after the effective date of this Fourth Report and Order, as suggested by NTIA. We conclude that this action is necessary to ensure that ELTs continue to serve their authorized purpose of providing an effective, spectrum-based way to facilitate locating aircraft for survival purposes; and to manage the spectrum available for use by the private mobile service to ensure the effective and efficient use of that spectrum for safety-related communications. These rule changes will substantially improve the efficiency and reliability of the services using this spectrum.[15]

14. The record demonstrates that 121.5 MHz ELTs were clearly inferior to 406 MHz ELTs due to interference and other concerns even prior to the termination of satellite monitoring of 121.5 MHz,[16] and that the advantages of 406 MHz ELTs have increased since then.[17] The global coverage,[18] reduction in false alerts,[19] and more precise identification of crash sites [20] provided by 406 MHz ELTs can save the lives of pilots and passengers,[21] and reduce both the cost to taxpayers of search and rescue operations and the risks borne by search and rescue personnel.[22] 406 MHz ELTs also are more likely than 121.5 MHz ELTs to activate in the event of an actual crash. They have safer, more reliable batteries; and better heat, cold, vibration, and fire resistance.

15. Although it appears that most GA aircraft owners and pilots are aware that satellite monitoring of 121.5 MHz ELTs has ceased,[23] some users may place unwarranted reliance on the protective value of 121.5 MHz ELTs based on a mistaken understanding of the scope and efficacy of non-satellite-based monitoring of the frequency, if these ELTs continue to be marketed indefinitely. As discussed below, despite the claims of some commenters regarding the vestigial benefits of 121.5 MHz ELTs, the great weight of the record evidence indicates that these benefits are marginal at best and more than offset by the difficulties for search and rescue efforts that would attend allowing the indefinite continued installation of such ELTs. Finally, while the FAA and AOPA expressed concern in 2010 about the availability of 406 MHz ELTs, more recent filings in the record establish that manufacturers have more than sufficient manufacturing capacity and depth of supply chain to meet demand for such ELTs.

16. Commenters opposed to prohibiting the manufacture, importation, and sale of 121.5 MHz ELTs argue that such action will impose costs that outweigh the benefits. Some commenters argue that the benefits of phasing out 121.5 MHz ELTs in favor of 406 MHz ELTs have been overstated because 121.5 MHz ELTs' continued safety benefits have not been fully recognized.[24] The record indicates, however, that current monitoring of 121.5 MHz distress transmissions is sporadic [25] and geographically limited.

17. There is no evidence, moreover that the costs to ELT manufacturers and distributors would be substantial, for manufacturers indicate that they would not be burdened with stranded

[13] The effective date is 30 days after **Federal Register** publication.

[14] GAMA argues that prohibiting certification of 121.5 MHz ELTs would impose an unnecessary regulatory mandate. We disagree. A Commission determination not to certify any additional models of 121.5 MHz ELTs does not mandate that private sector entities take any actions or expend any funds.

[15] This action is consistent with previous Commission efforts establishing technical requirements specifically for ELTs and other emergency radiobeacons to ensure that they work efficiently and reliably as intended.

[16] ELTech notes that 121.5 MHz ELT transmissions are ''problematic due to their harmonics.'' It states that the United States Air Force Rescue Command Center ''has reported looking for downed aircraft and being thwarted by 121.5 signals being 'retransmitted' along the power grid,'' and many unintentional radiators on 121.5 MHz interfered with Cospas-Sarsat's ability to respond to actual distress transmissions on the frequency. In determining that helicopters conducting over-water operations be required to carry 406 MHz ELTs, the FAA cited ''a stronger signal resulting in less interference'' as one of the benefits of 406 MHz ELTs vis-a-vis 121.5 MHz ELTs.

[17] NTIA submitted with its comments a 1996 NOAA report quantifying the benefits of 406 MHz ELTs compared to 121.5 MHz ELTs. Similarly, with respect to EPIRBs, the Commission noted that even before the termination of satellite monitoring, ''[l]ifesaving efforts [we]re often ineffective when 121.5/243 MHz EPIRBs transmit because there [wa]s no available registration information to aid detection [and] . . . 406 MHz EPIRBs [we]re responsible for four times the number of lives saved as 121.5/243 MHz EPIRBs, while being responsible for only two percent of the total number of false alerts attributed to 121.5/243 MHz EPIRBs.''

[18] In contrast to the global coverage of a 406 MHz ELT, a 121.5 MHz ELT distress signal may not be detected ''unless the incident occurs near an airport, the plane's 121.5 MHz signal is detected by an overflying aircraft, or the downed plane fails to arrive at its intended destination,'' and any notification that does occur may be hours after the crash.

[19] The National Transportation Safety Board (NTSB) has noted that detectable 121.5 MHz signals can be emitted by, *e.g.,* automated teller machines, pizza ovens, CD players, and stadium scoreboards. Moreover, a significant number of alerts from 121.5 MHz ELTs turn out to be false alarms. As noted above, 406 MHz ELTs transmit a digital signal encoded with unique information about the aircraft and its owner that permits speedy verification that a distress situation is real.

[20] NTIA says that the greater accuracy of 406 MHz ELTs reduces the search area for a crash to less than two nautical miles (3.7 km) in radius, or approximately 43 square kilometers, and that 406 MHz ELTs, unlike 121.5 MHz ELTs, can be equipped with a GPS chip that can further refine the search area to within 100 meters of a crash. In contrast, ''The U.S. SARSAT program estimates that, if a commercial airliner flying at 30,000 feet detects a 121.5 MHz signal, the probable search area would have a radius of 198 miles (about 317 km), and an area of 123,613 square miles (315,696 km^2).''

[21] Under FAA regulations, planes designed to carry not more than one person are exempt from the ELT carriage requirement.

[22] ACR notes that the greater precision of 406 MHz ELTs not only enhances the likelihood that a survivor will receive medical care more quickly but also minimizes risk to search and rescue personnel by allowing them to reach the crash scene with less flying, hiking, etc.

[23] In the *3rd FNPRM,* the Commission asked whether, if it permitted the continued sale of 121.5 MHz ELTs, it should enact additional requirements, such as labeling or point-of-sale disclosure requirements, to ensure that purchasers are aware that 121.5 MHz ELTs lack satellite alerting capability. NTSB states that it does not believe such requirements are necessary in light of survey data indicating that 96 percent of AOPA's members are aware that Cospas-Sarsat no longer monitors 121.5 MHz. We agree and therefore decline to adopt any labeling or point-of-sale disclosure requirements during the remaining period when sale of 121.5 MHz ELTs will be permitted.

[24] DOT states, for example, that 121.5 MHz ELTs ''continue to provide a beneficial means of locating missing aircraft in critical emergency situations'' because 121.5 MHz ELT signals ''continue to be monitored by the search and rescue community, most notably the Civil Air Patrol . . . .'' The record indicates, however, that there is no formal CAP monitoring of the frequency, and that CAP supports a deliberate transition to 406 MHz technology. (Moreover, as noted, the position of the Executive Branch, as reflected in the NTIA *Ex Parte* filed six months after the DOT *Ex Parte,* reflects support for a complete switchover to 406 MHz ELTs.) Others argue that since 121.5 MHz ELTs were deemed to promote aviation safety prior to satellite monitoring, they should be deemed to continue to have such value even after the cessation of satellite monitoring.

[25] NTIA, for example, notes that the FAA Aeronautical Information Manual states only that pilots are ''encouraged'' to monitor 121.5 MHz while in flight to assist in identifying possible ELT transmissions.

inventory. The record indicates that manufacturers, distributors, and retailers do not have significant on-the-shelf inventories of 121.5 MHz ELTs due to battery life issues.

18. The Aviation Suppliers Association (ASA) does not dispute that existing inventories can be depleted quickly, but argues that prohibiting the sale of 121.5 MHz ELTs would work an unconstitutional taking of property under the Fifth Amendment by rendering distributors' inventory of 121.5 MHz ELTs worthless. The Supreme Court has established a three-part test for determining whether a regulatory taking has occurred, in which a court will consider (1) the economic impact of the regulation on the claimant, (2) the extent to which the regulation interferes with the claimant's investment-backed expectations, and (3) the character of the government regulation or action. There is no evidence in the record to suggest that these criteria have been met. Moreover, ASA does not cite, and we are otherwise are not aware of, any authority for the proposition that prohibiting the sale of legacy devices, particularly following a transition period, constitutes a Fifth Amendment regulatory taking. Phasing in prohibitions such as the ones adopted herein is a common and necessary approach where the Commission has determined that ongoing use of legacy devices will be incompatible with changes in spectrum use mandated by the public interest, and operates to mitigate the ''economic impact'' of the governmental regulatory action.

19. It also does not appear that removing 121.5 MHz ELTs from the marketplace will impose significant costs on users in terms of a future price differential between 406 MHz ELTs and 121.5 MHz ELTs. The only responsive data to the Commission's request for ''specific data on the costs of purchasing and installing a 406 MHz ELT'' suggests that the price differential between 406 MHz ELTs and 121.5 MHz ELTs has decreased significantly in the last few years, and will decrease further: In 2010, the FAA estimated the average cost of a 406 MHz ELT to be more than $2,500, but comments submitted in 2013 indicate that the price had already dropped to less than half of that.[26] Based on staff review of publicly available information, we believe that 406 MHz ELTs are now available for less than $600. Commenters who oppose the proposed prohibitions have not offered any information to quantify costs to the GA community from prohibiting the manufacture, importation, or sale of 121.5 MHz ELTs. Consequently, we are not persuaded by unsubstantiated claims that costs to GA aircraft owners and pilots resulting from the removal of 121.5 MHz ELTs from the market would hinder them from investing in other equipment or measures that would make more efficient use of this spectrum and better promote aviation safety.

20. Nor do we agree that prohibiting the manufacture, importation, and sale of 121.5 MHz ELTs is unnecessary because a transition to 406 MHz ELTs will occur naturally over time without Commission intervention. That a migration would occur eventually does not justify inaction, when the modest action that we are taking here should expedite the changes to the nature of this service that we have determined, pursuant to section 303(b), will maximize the efficient use of spectrum and best serve the public interest, convenience, and necessity. Similarly, in considering whether this action in managing the spectrum will promote the safety of life and property, as required by section 332(a), we find that it would disserve the public interest to take a slower path than the one we have chosen here. Moreover, for the reasons discussed below, we have determined that imposing a direct ban on licensee use of 121.5 MHz ELTs would be unlikely to produce a substantially quicker transition to 406 MHz ELT use. Accordingly, we impose this phased-in prohibition on the manufacture, importation, and sale of 121.5 ELTs to fulfill our statutory responsibilities effectively.

21. Commenters who favor prohibiting the manufacture, importation, and sale of 121.5 MHz ELTs support a transition period of one year (as proposed in the 3rd FNPRM) or less. We believe that, at this juncture, a six-month transition period strikes a reasonable compromise in accelerating the removal of 121.5 MHz ELTs from the stream of commerce while avoiding undue hardship to manufacturers, importers, vendors, and users of the devices. Manufacturers, importers, vendors, and users have been on notice for many years that 121.5 MHz ELTs would have a diminishing role in avionics, and it appears that there is currently very little manufacturing or sales activity involving 121.5 MHz ELTs. We therefore amend § 87.195 of our rules to prohibit the manufacture, importation, or sale of 121.5 MHz ELTs, beginning six months from the effective date of this Fourth Report and Order.[27]

22. *Use.* After reviewing the record and the relevant statutory authority, we do not adopt a prohibition on the continued use of existing 121.5 MHz ELTs. Some commenters favor prohibiting the use of 121.5 MHz ELTs based on the same considerations that underlie their support for the Commission's proposals to prohibit the manufacture, importation, and sale of 121.5 MHz ELTs, albeit after a longer transition period to minimize the cost burden on the GA community. NTIA recommends a transition period of eight years before the use of 121.5 MHz ELTs is prohibited, while others advocate shorter grandfathering periods.

23. Those who oppose a prohibition on the use of 121.5 MHz ELTs, even if accomplished gradually and with grandfathering protections, argue that it would impose costs on the GA community that outweigh the benefits; that it is unnecessary because a transition to exclusive use of 406 MHz ELTs will occur naturally over time; and that requiring users of 121.5 MHz ELTs to upgrade to 406 MHz ELTs by a specified deadline would foreclose them from investing in other equipment and measures that would better promote aviation safety. While these are generally the same arguments that these parties raise against prohibiting the manufacture, importation, and sale of 121.5 MHz ELTs, the record indicates that these parties' greatest concern is with prohibiting the use of 121.5 MHz ELTs, and that they are most strongly opposed to the adoption of a rule that might require GA aircraft owners to replace 121.5 MHz ELTs before the end

[26] ACK states that commenters opposing the Commission's proposals rely on outdated FAA data estimating the average cost of a 406 MHz ELT at $2,800, and that retail costs of GPS-capable 406 MHz ELTs have fallen to as low as $550. It adds that a complete new installation, including parts and labor, would cost between $830 and $1,100. ELTech says that 406 MHz ELTs are now available for between $600 and $1600, with an additional $250 to $400 in labor costs for installation. ELTech Comments at 3.

[27] ACR also favors a one-year phase-out of the sale and installation of replacement batteries, and an immediate prohibition on the manufacture and importation of battery packs, replacement parts, and on-field servicing of 121.5 MHz ELTs. In the *3rd FNPRM,* the Commission stated that it was ''not proposing any prohibition or restriction on the manufacture, sale, or installation of replacement components, such as batteries, for 121.5 MHz ELTs in use [because] . . . permitting the continued marketing of replacement components for 121.5 MHz ELTs does not present the same concerns, and would not delay the transition to 406 MHz ELTs to the same extent, as permitting the continued marketing of stand-alone 121.5 MHz ELTs.'' The Commission also invited comment on this issue, however. We decline to prohibit the manufacture, importation, sale, or installation of replacement components for 121.5 MHz ELTs both for the reasons stated in the *3rd FNPRM* and because we believe that such action would be inconsistent with our decision to permit the continued use of 121.5 MHz ELTs, as discussed below. If the continuing availability of replacement parts for 121.5 MHz ELTs appears to be frustrating our goal of speeding the transition to 406 MHz ELTs, we may revisit this issue.

of their useful lives, especially given the imminence of an ADS–B mandate (scheduled to take effect in 2020) that would require an additional significant expenditure of funds for new equipment; they fear that, after purchasing and installing a 406 MHz ELT, they will be required a few years later to purchase ADS–B equipment that provides equivalent or greater safety benefits.

24. Commenters also contend that the statutory provision requiring most fixed-wing powered civil aircraft to carry an ELT—section 44712 of Title 49 of the United States Code, which provides that an ''aircraft meets the [ELT carriage] requirement . . . if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency or with other equipment approved by the Secretary for meeting the requirement''—forecloses the Commission from prohibiting use of 121.5 MHz ELTs.[28] Those who oppose a use prohibition also argue that the Commission should defer to the FAA on this issue, and that it would be inappropriate for the Commission to prohibit the use of 121.5 MHz ELTs when the FAA has declined to do so. The proponents of a use prohibition do not address the argument that section 44712 precludes such a prohibition.

25. We decline to prohibit the use of 121.5 MHz ELTs at this time.[29] The language of section 44712 casts doubt on our authority to prohibit the use of 121.5 MHz ELTs. Moreover, even if section 44712 permits such action, we question whether prohibiting the use of 121.5 MHz ELTs after a substantial transition period would bring about an end to the use of 121.5 MHz ELTs significantly sooner than what would occur naturally after such ELTs can no longer be certified, manufactured, imported, or sold. We anticipate that a transition to 406 MHz ELTs will occur naturally over time without additional Commission intervention beyond phasing out the certification, manufacture, importation, and sale of 121.5 MHz ELTs. It is possible, and perhaps likely, that a decision now to prohibit the use of 121.5 MHz ELTs after a transition period of up to eight years, as proposed by NTIA, could be overtaken by federal legislation, other legal developments, and/or technological advances, particularly with regard to ADS–B deployment.[30] We have rejected the idea that we should take no action at all to remove 121.5 MHz ELTs from the marketplace based on the argument that such devices would eventually cease to be marketed. However, we conclude that, in terms of accelerating the transition to exclusive use of 406 MHz ELTs, the marginal benefits of banning the use of 121 MHz ELTs, given the ban on future sales, do not outweigh the costs. Therefore, the public interest would not be advanced by a further rule change to the actions we are taking here, as it would not appear to provide any added net benefit. We reserve discretion to revisit this matter in furtherance of our statutory obligation to ensure the effective and efficient use of spectrum for safety-related communications if future events so warrant. Meanwhile, we encourage users to switch to 406 MHz radiobeacons at the earliest practical opportunity, in light of the safety benefits discussed above.

26. Finally, as proposed in the *3rd FNPRM,* we revise § 87.147(b) of the rules to delete an outdated cross-reference. The rule cross-references subpart N of part 2 of the rules, but subpart N has been deleted. No commenter addressed this issue.[31]

27. Procedural Matters. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Third Further Notice of Proposed Rulemaking (Third FNPRM),* at 78 FR 6276, January 30, 2013. The Commission sought written public comment on the proposals in the *Third FNPRM,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

28. The rules adopted in the *Fourth Report and Order* are intended to promote aviation safety. Specifically, in the *Fourth Report and Order,* the Commission prohibits the certification and, after six months, the manufacture, importation, or sale 121.5 MHz ELTs in order to accelerate the transition to the more reliable and effective 406 MHz ELTs, which will enhance the ability of search and rescue personnel to rapidly and safely identify and come to the aid of the victims of airplane crashes.

29. Commenters argued that that the IRFA was deficient because it did not provide an adequate costs/benefits analysis of prohibiting the continued use of 121.5 MHz ELTs, by understating the safety benefits of 121.5 MHz ELTs even after the cessation of satellite monitoring of 121.5 MHz, overstating the safety benefits of 406 MHz ELTs, and failing to fully recognize the compliance costs to general aviation aircraft owners and pilots of having to swap out a 121.5 MHz ELT for a 406 MHz ELT before the end of the useful life of the former. In the *Fourth Report and Order,* the Commission determined to not prohibit the use of 121.5 MHz ELTs, mooting these issues.

30. 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 rules adopted herein. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

31. Small businesses in the aviation and marine radio services use a marine very high frequency (VHF), medium frequency (MF), or high frequency (HF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, an aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. For purposes of this analysis, therefore, the Commission uses the SBA small business size standard for the category ''Wireless Telecommunications Carriers

[28] In comments filed in advance of the NTIA *Ex Parte,* DOT also asserts that the relevant statutory language reflects ''Congress's unequivocal intent to permit the use of 121.5 [MHz] ELTs in civil aircraft.'' We note that the DOT *ex parte* comments and the later-filed NTIA *Ex Parte* take conflicting positions regarding a use prohibition. While the DOT *Ex Parte* opposing a prohibition on the use of 121.5 MHz ELTs state that ''DOT and FAA officials have shared the views expressed here with representatives of . . . NTIA,'' NTIA says that its later-filed comments supporting the prohibition on the use of 121.5 MHz ELTs include the input of the FAA, supersede the earlier DOT *ex parte* comments, and ''reflect the views of the Executive Branch on the issues raised in the [*3rd FNPRM*].''

[29] In light of this decision, we need not address arguments that we may not prohibit the use of 121.5 MHz ELTs because the Commission failed to provide adequate notice in the *3rd FNPRM* that it was contemplating a use prohibition, failed to provide an adequate cost/benefit analysis of such a prohibition, or relied on a deficient Supplemental Initial Regulatory Flexibility Analysis.

[30] Other commenters proposed shorter transition periods, but still long enough to raise questions regarding the incremental benefit of a use prohibition in light of these concerns. No party proposed an immediate or short-term transition.

[31] RTCM's recommendation that we remove the labeling requirement in § 87.147(b) is beyond the scope of the *3rd FNPRM.* In addition, as long as the manufacture, importation, and sale of 121.5 MHz ELTs is permitted, we believe that the labeling requirement should remain unchanged in order to avoid any confusion about the standard to which the unit was certified.

(except satellite),'' which is 1,500 or fewer employees. Census data for 2012 shows that there were 967 firms in that category that operated for the entire year. Of those 967, 955 had fewer than 1,000 employees, and 12 firms had 1,000 or more employees. Thus, under this category and the associated small business size standard, the majority of firms can be considered small.

32. Some of the rules adopted herein may also affect small businesses that manufacture aviation radio equipment. The Census Bureau does not have a category specific to aviation radio equipment manufacturers. The appropriate category is that for wireless communications equipment manufacturers. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees. According to Census bureau data for 2012, there were a total of 841 firms in this category that operated that year. Of this total, 828 had fewer than 1,000 employees and 13 had 1,000 or more employees. Thus, under this size standard, the majority of firms can be considered small.

33. The rule changes adopted in the *Fourth Report and Order* do not impose any new reporting or recordkeeping requirements on any entity. The rule changes in the *Fourth Report and Order* prohibit manufacturers from filing applications with the Commission for the certification of new models of 121.5 MHz ELTs. This prohibition should not create any new burden for manufacturers, however, because the Federal Aviation Administration's earlier cancellation of the Technical Standards Order (TSO) for 121.5 MHz ELTs already prohibits them from seeking such certifications. In addition, after a six-month transition period, no entity may manufacture, import or sell 121.5 MHz ELTs. This rule change does not directly impose any requirements on aircraft owners or pilots or other users of 121.5 MHz ELTs, but as a consequence of the rules adopted in the *Fourth Report and Order,* after the specified transition period, a user of a 121.5 MHz ELT that has reached the end of its useful life will be required to purchase a 406 MHz ELT rather than another 121.5 MHz ELT to replace it. Although some commenters expressed concern regarding the cost of 406 MHz ELTs, based on cost estimates exceeding $2,500 per aircraft, we believe that the price of 406 MHz ELTs has dropped significantly in the period after those cost estimates were derived, and that 406 MHz ELTs are now available at a cost of $600 or less per aircraft. In the IRFA accompanying the *Third FNPRM,* the Commission specifically identified each of the above rule amendments as potentially affecting reporting, recordkeeping and other compliance requirements, and specifically requested comment on the economic impact of these changes.

34. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

35. We believe that the decision in the *Fourth Report and Order* to prohibit certification of 121.5 MHz ELTs should not have an impact on small entities, including manufacturers, because the Federal Aviation Administration's May 2012 cancellation of its Technical Standard Order (TSO) for 121.5 MHz ELTs, TSO C–91a, already precludes approval of any new models of 121.5 MHz ELTs.

36. To minimize the economic impact on small entities of the decision in the *Fourth Report and Order* to prohibit the manufacture, importation and sale of 121.5 MHz ELTs, we provide for a six-month transition period. That is, the prohibition will not take effect until six months after the effective date of the *Fourth Report and Order.* The record indicates that this six-month transition period is more than sufficient to ensure that manufacturers and distributors of 121.5 MHz ELTs do not experience stranded inventory. In addition, the economic impact of these prohibitions on aircraft owners and pilots is minimized by the fact that we are not prohibiting the continued use of installed 121.5 MHz ELTs, and we are not prohibiting the manufacture, importation or sale of replacement parts for those 121.5 MHz ELTs.

37. *Paperwork Reduction Act.* This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

38. *Congressional Review Act.* The Commission will send a copy of this *Fourth Report and Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

39. *Ordering Clauses.* Accordingly, *it is ordered* that, pursuant to sections 4(i), 4(j), 303(b), 303(r) and 332(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(b) 303(r), and 332(a), this *Fourth Report and Order is hereby adopted.*

40. *It is further ordered* that the stay of the amendment to § 87.195 of the Commission's Rules adopted in the *Third Report and Order* in this proceeding *is lifted,* and the amendment to § 87.195 of the Commission's Rules adopted in the *Third Report and Order is superseded* by the amendment to § 87.195 of the Commission's Rules adopted in this *Fourth Report and Order,* effective 30 days after publication in the **Federal Register**.

41. *It is further ordered* that part 87 of the Commission's Rules *is amended* as set forth in the Final Rules section, effective 30 days after publication in the **Federal Register**.

42. *It isfurther ordered* that the Commission *shall send* a copy of the *Fourth Report and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

43. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the *Fourth Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

44. *It is further ordered* that this proceeding *is terminated* pursuant to section 4(i) and 4(j) of the Communications Act, 47 U.S.C. 154(i) and (j).

List of Subjects in 47 CFR Part 87

Aviation communications, Equipment.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 87 as follows:

PART 87—AVIATION SERVICES

■ 1. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

■ 2. Section 87.147 is amended by revising paragraph (b) to read as follows:

§ 87.147 Authorization of equipment.

* * * * *

(b) ELTs manufactured after October 1, 1988, must meet the output power characteristics contained in § 87.141(i). A report of the measurements must be submitted with each application for certification. ELTs that meet the output power characteristics of the section must have a permanent label prominently displayed on the outer casing state, ''Meets FCC Rule for improved satellite detection.'' This label, however, must not be placed on the equipment without authorization to do so by the Commission. Application for such authorization may be made either by submission of a new application for certification accompanied by the required fee and all information and test data required by parts 2 and 87 of this chapter or, for ELTs approved prior to October 1, 1988, a letter requesting such authorization, including appropriate test data and a showing that all units produced under the original equipment authorization comply with the requirements of this paragraph without change to the original circuitry.

* * * * *

■ 3. Effective January 11, 2019, the stay of § 87.195 is lifted and the section is revised to read as follows:

§ 87.195 121.5 MHz ELTs.

ELTs that operate only on frequency 121.5 MHz will no longer be certified. The manufacture, importation, and sale of ELTs that operate only on frequency 121.5 MHz is prohibited beginning July 10, 2019. Existing ELTs that operate only on frequency 121.5 MHz must be operated as certified.

[FR Doc. 2018–26413 Filed 12–11–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 655

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of calendar year 2019 random drug and alcohol testing rates.

SUMMARY: The Federal Transit Administration (FTA) is increasing the minimum random drug testing rate from 25 percent to 50 percent in calendar year 2019 for employers subject to the FTA's drug and alcohol rule. The minimum random alcohol testing rate will remain at 10 percent for calendar year 2019.

DATES: Effective: January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Iyon Rosario, Drug and Alcohol Program Manager for the Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–366–2010 or email: *Iyon.Rosario@dot.gov*).

SUPPLEMENTARY INFORMATION: On January 1, 1995, the FTA required large transit employers to begin drug and alcohol testing of employees performing safety-sensitive functions, and submit annual reports by March 15 of each year beginning in 1996. Small employers commenced their FTA-required testing on January 1, 1996, and began reporting the same information as the large employers starting on March 15, 1997. The rule initially required employers to conduct random drug tests for prohibited drug use at a rate equivalent to at least 50 percent of their total number of safety-sensitive employees and for misuse of alcohol at a rate of at least 25 percent of their total number of safety-sensitive employees.

The FTA updated the testing rules on August 1, 2001, and maintained a minimum random testing rate for prohibited drugs at 50 percent and the misuse of alcohol at 10 percent. However, pursuant to 49 CFR 655.45(c) and (d), both random testing rates could be adjusted based on industry-reported violations that have been verified over two preceding consecutive calendar years. Accordingly, the FTA in 2007 reduced the minimum random drug testing rate from 50 percent to 25 percent, where it has remained since then.

Pursuant to 49 CFR 655.45(c), the FTA will increase the minimum random drug testing rate from 25 percent back to 50 percent if the industry-reported data for any one calendar year indicates that the positive rate equals or exceeds one percent (positive rate means the number of verified positive results for random drug tests conducted under 49 CFR 655.45 plus the number of refusals of random tests, divided by the total number of random drug test results (*i.e.,* positive, negative, and refusals)). Likewise, the minimum alcohol random rate will be increased from 10 percent to 25 percent should the reported data indicates that the violation rate is equal to or greater than 0.5 percent, but less than one percent for any one year (violation rate means the number of covered employees found during random tests administered under 49 CFR 655.45 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a required random test, divided by the total reported number of random alcohol tests). Furthermore, if the minimum random alcohol rate is 25 percent, and if the validated violation rate is equal to or greater than one percent for any one calendar year, then the minimum random alcohol rate will be increased to 50 percent.

Pursuant to 49 CFR 655.45(b), the FTA's decision to increase or decrease the minimum annual percentage rates for random drug and alcohol testing is based, in part, on the reported verified positive drug rate and alcohol violation rate for the entire public transportation industry. The information used for this determination is drawn from the Drug and Alcohol Management Information System (MIS) reports required by 49 CFR 655.72. In determining the reliability of the data, the FTA considers the quality and completeness of the reported data, or may obtain additional information or reports from employers, and make appropriate modifications in calculating the industry's verified drug positive rate and alcohol violation rates.

For calendar year 2019, the FTA has determined that the minimum random drug testing rate for covered employees will increase from 25 percent to 50 percent based on a verified positive rate that exceeded 1.0 percent for random drug test data for calendar year 2017. The random drug testing positive rate for 2017 was 1.06 percent. Further, for calendar year 2019, the FTA has determined that the random alcohol testing rate for covered employees will

remain at 10 percent because the violation rate was lower than 0.5 percent for calendar years 2016 and 2017. The random alcohol violation rates were 0.14 percent for 2016 and 0.16 percent for 2017.

Detailed reports on the FTA drug and alcohol testing data collected from transit employers may be obtained from the FTA's Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–2010 or at *https://transit-safety.fta.dot.gov/DrugAndAlcohol/Publications/Default.aspx.*

K. Jane Williams,

Acting Administrator.

[FR Doc. 2018–26950 Filed 12–11–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345–2142–03]

RIN 0648–XG661

Snapper-Grouper Fishery of the South Atlantic; 2018 Recreational Accountability Measure and Closure for South Atlantic Red Grouper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the red grouper recreational sector in the exclusive economic zone (EEZ) of the South Atlantic for the 2018 fishing year through this temporary rule. NMFS estimates recreational landings of red grouper in 2018 have exceeded the recreational annual catch limit (ACL). Therefore, NMFS closes the red grouper recreational sector in the South Atlantic EEZ at 12:01 a.m., local time, on December 12, 2018 for the remainder of the 2018 fishing year. This closure is necessary to protect the red grouper resource.

DATES: This rule is effective 12:01 a.m., local time, December 12, 2018, until 12:01 a.m., local time, January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes red grouper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On July 26, 2018, as a result of the determination that red grouper was undergoing overfishing, NMFS published the final rule for Abbreviated Framework 1 to the FMP in the **Federal Register** (83 FR 35435). In part, that final rule decreased the recreational ACL for red grouper in the South Atlantic to end overfishing of the stock and set the recreational ACL for the 2018 fishing year at 77,840 lb (35,308 kg), whole weight, as described at § 622.193(d)(2)(ii). In accordance with regulations at 50 CFR 622.193(d)(2)(i) for the recreational sector, if recreational landings of red grouper are projected to reach the recreational ACL, the Assistant Administrator for NOAA Fisheries (AA) will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year. Recent landings data from the NMFS Southeast Fisheries Science Center indicate that the red grouper recreational ACL for 2018 has been exceeded. Therefore, this temporary rule implements the AM to close the red grouper recreational sector of the snapper-grouper fishery for the remainder of the 2018 fishing year. As a result, the recreational sector for red grouper in the South Atlantic EEZ will be closed effective 12:01 a.m., local time December 12, 2018 through December 31, 2018.

NMFS notes that while the 2019 fishing year begins on January 1, as described at § 622.183(b)(1), the commercial and recreational harvest of red grouper is prohibited annually from January through April of each year. Therefore, the recreational sector for red grouper will reopen on May 1, 2019, the beginning of the recreational fishing season. The recreational ACL for 2019 is 84,000 lb (38,102 kg), whole weight, as described at § 622.193(d)(2)(ii).

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of South Atlantic red grouper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(d)(2)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The AA finds that the need to immediately implement this action to close the recreational sector for red grouper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the AMs implementing the recreational closure have already been subject to notice and comment. All that remains is to notify the public of the recreational closure for red grouper for the remainder of the 2018 fishing year. Prior notice and opportunity for comment are contrary to the public interest because of the need to immediately implement this action to protect the red grouper resource. Time required for notice and public comment would allow for continued recreational harvest and further exceedance of the recreational ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: December 7, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–26897 Filed 12–7–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 238
Wednesday, December 12, 2018

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2018–0221]

RIN 3150–AK18

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM 100 Multipurpose Canister Cask System, Certificate of Compliance No. 1014, Amendment Nos. 11 and 12

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the Holtec International HI–STORM 100 Multipurpose Canister Cask System (HI–STORM 100 System) listing within the ''List of approved spent fuel storage casks'' to include Amendment Nos. 11 and 12 to Certificate of Compliance No. 1014. Amendment Nos. 11 and 12 propose to revise multiple items in the Technical Specifications for multi-purpose canister models listed under Certificate of Compliance No. 1014; most of these revisions involve changes to the authorized contents. In addition, Amendment No. 11 makes several other editorial changes.

DATES: Submit comments by January 11, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0221. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Yen-Ju Chen, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–1018; email: *Yen-Ju.Chen@nrc.gov* or Vanessa Cox, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–8342; email: *Vanessa.Cox@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0221 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0221.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0221 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This proposed rule is limited to the changes contained in Amendment Nos. 11 and 12 to Certificate of Compliance 1014 and does not include other aspects of the Holtec International HI–STORM 100 System design. Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register** (FR). The direct final rule will become effective on February 25, 2019. However, if the NRC receives significant adverse comments on this proposed rule by January 11, 2019, then the NRC will publish a document that withdraws the

direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule.

For procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the FR.

III. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR) entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on May 1, 2000 (65 FR 25241) that approved the Holtec International HI–STORM 100 System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1014.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No./web link/ **Federal Register** citation
Subpart K of 10 CFR part 72, ''General License for Storage of Spent Fuel at Power Reactor Sites''	55 FR 29181
10 CFR part 72, ''List of Approved Spent Fuel Storage Casks: Holtec HI–STORM 100 Addition''	65 FR 25241
Letter from Holtec International to NRC, ''Holtec International HI–STORM 100 Multipurpose Canister Storage System Amendment Request 1014–11'' dated January 29, 2016.	ML16029A528
Letter from Holtec International to NRC, ''Supporting Information for License Amendment Request 11 (1014–11) to the HI–STORM 100 CoC'' dated February 16, 2016. (This letter contains five enclosures, and Enclosures 1 through 4 are proprietary information and not publicly available.).	ML16069A246
Letter from Holtec International to NRC, ''Transmittal of Requests for Supplemental Information Responses Supporting HI–STORM 100 License Amendment Request 1014–11'' dated June 6, 2016.	ML16159A344
Letter from Holtec International to NRC, ''Submittal of Responses to NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated December 22, 2016.	ML17005A236
Letter from Holtec International to NRC, ''Modification to Requested Changes on HI–STORM 100 Amendment 11 Request'' dated April 22, 2016.	ML16113A394
Letter from Holtec International to NRC, ''Submittal of Responses to NRC's 2nd Round Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated September 8, 2017.	ML17261A159
Letter from Holtec International to NRC, ''Submittal of Supplemental Information on NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated November 10, 2017. (This package contains nine attachments, and Attachments 1, 6, 7, and 8 are proprietary information and not publicly available.).	ML17325A555
Letter from Holtec International to NRC, ''Submittal of Revised Supplemental Information on NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated December 21, 2017.	ML17362A113
User Need Memorandum for Rulemaking for the Holtec International HI–STORM 100 Cask System, Amendment 11	ML18141A568
Proposed Certificate of Compliance 1014, Amendment 11, Certificate of Compliance for Spent Fuel Storage Casks	ML18141A561
Proposed Certificate of Compliance 1014, Amendment 11, Technical Specifications, Appendix A	ML18141A562
Proposed Certificate of Compliance 1014, Amendment 11, Approved Contents and Design Features, Appendix B	ML18141A563
Proposed Certificate of Compliance 1014, Amendment 11, Technical Specifications, Appendix A–100U	ML18141A564
Proposed Certificate of Compliance 1014, Amendment 11, Approved Contents and Design Features, Appendix B–100U	ML18141A565
Certificate of Compliance 1014, Amendment 11, Preliminary Safety Evaluation Report	ML18141A567

Document	ADAMS accession No./web link/ **Federal Register** citation
Letter from Holtec International to NRC, ''Holtec International HI–STORM 100 Multipurpose Canister Storage System Amendment Request 1014–12'' dated June 14, 2016.	ML16169A363
Letter from Holtec International to NRC, ''Holtec International HI–STORM 100 Multipurpose Canister Storage System Amendment Request 1014–12 Supporting Calculation Packages'' dated July 22, 2016. (This package contains four attachments, and Attachments 1 through 3 are proprietary information and not publicly available.).	ML16210A133
Letter from Holtec International to NRC, ''HI–STORM 100 Amendment 12 Responses to Requests for Supplemental Information'' dated November 4, 2016. (This package contains five attachments, and Attachment 4 is proprietary information and not publicly available.).	ML16313A216
Letter from Holtec International to NRC, ''Submittal of Responses to NRC's Requests Additional Information for HI–STORM 100 License Amendment Request 1014–12'' dated August 25, 2017. (This package contains 13 attachments, and Attachments 1, 5, 7, 8, 9, 10, 11, and 12 are proprietary information and not publicly available.).	ML17251A739
Letter from Holtec International to NRC, ''Submittal of Responses to NRC's 2nd Round Requests Additional Information for HI–STORM 100 License Amendment Request 1014–11'' dated September 8, 2017. (This package contains seven attachments, and Attachments 1, 5, and 6 are proprietary information and not publicly available.).	ML17261A159
Letter from Holtec International to NRC, ''Submittal of Supplemental Information on NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–12'' dated November 10, 2017. (This package contains six attachments, and Attachment 1 is proprietary information and not publicly available.).	ML17326A174
Letter from Holtec International to NRC, ''Submittal of Revised Supplemental Information on NRC's Requests for Additional Information for HI–STORM 100 License Amendment Request 1014–12'' dated December 22, 2017.	ML17362A130
User Need Memorandum for Rulemaking for the Holtec International HI–STORM 100 Cask System, Amendment 12	ML18087A056
Proposed Certificate of Compliance 1014, Amendment 12, Certificate of Compliance for Spent Fuel Storage Casks	ML18087A057
Proposed Certificate of Compliance 1014, Amendment 12, Technical Specifications, Appendix A	ML18087A058
Proposed Certificate of Compliance 1014, Amendment 12, Approved Contents and Design Features, Appendix B	ML18087A059
Proposed Certificate of Compliance 1014, Amendment 12, Technical Specifications, Appendix A–100U	ML18087A060
Proposed Certificate of Compliance 1014, Amendment 12, Approved Contents and Design Features, Appendix B–100U	ML18087A061
Certificate of Compliance 1014, Amendment 12, Preliminary Safety Evaluation Report	ML18087A062

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2018–0221. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2018–0221); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170); superseded by Amendment Number 8, Revision 1, Effective Date: February 16, 2016.

Amendment Number 8, Revision 1, Effective Date: February 16, 2016.

Amendment Number 9 Effective Date: March 11, 2014, superseded by Amendment Number 9, Revision 1, on March 21, 2016.

Amendment Number 9, Revision 1, Effective Date: March 21, 2016, as corrected (ADAMS Accession No. ML17236A451).

Amendment Number 10 Effective Date: May 31, 2016, as corrected (ADAMS Accession No. ML17236A452).

Amendment Number 11 Effective Date: February 25, 2019.

Amendment Number 12 Effective Date: February 25, 2019.

Safety Analysis Report Submitted by: Holtec International.

Safety Analysis Report Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated at Rockville, Maryland, this 29th day of November 2018.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2018–26878 Filed 12–11–18; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

RIN 2120–AK39

Notification of Replacement Public Meeting on Requirement for Helicopters To Use the New York North Shore Helicopter Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notification of public meeting.

SUMMARY: Due to inclement weather on November 15, 2018, the FAA announces a replacement public meeting to solicit feedback concerning the New York North Shore Helicopter Rule (''the Rule''). This meeting is being held pursuant to Section 182 of the FAA Reauthorization Act of 2018. The Rule requires civil helicopter pilots operating under Visual Flight Rules (VFR), whose route of flight takes them over the north shore of Long Island between the Visual Point Lloyd Harbor (VPLYD) waypoint and Orient Point (VPOLT), to use the North Shore Helicopter Route.

DATES: The public meeting will be held on Thursday, December 13, 2018.

ADDRESSES: The public meeting will be held at Vaugh College, 8601 23rd Avenue, Flushing NY 11369. The meeting is 7:00 p.m.–9:00 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Christopher Bailey, Office of Rulemaking, Federal Aviation Administration; telephone (202) 267–4158; email *Christopher.Bailey@faa.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Public Meeting

The purpose of the public meeting is for the FAA to obtain feedback relevant to the Rule at subpart H of part 93, which requires civil helicopter pilots operating under VFR, whose route of flight takes them over the north shore of Long Island between the VPLYD waypoint and VPOLT, to use the North Shore Helicopter Route. The FAA will consider comments made at the public meeting in its review of the Rule.

Public Participation and Meeting Procedures

The meeting will use a workshop format. FAA will have several stations covering a number of relevant aspects of the Rule. Each station will be staffed by an FAA representative who is able to answer questions regarding that subject. There will also be a station where the public can submit a written statement or have their oral comment transcribed. No formal presentations will be made.

Section 182 of the FAA Reauthorization Act of 2018 also calls for a written comment period on the North Shore Helicopter Rule. See docket number FAA–2018–0954 to submit written comments.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 3 calendar days before the meeting. The meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

Issued in Washington, DC, on December 7, 2018.

Brandon Roberts,

Deputy Executive Director, Office of Rulemaking.

[FR Doc. 2018–26934 Filed 12–10–18; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 600

[Docket No. FDA–2018–N–2732]

RIN 0910–AH57

Definition of the Term ''Biological Product''

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is proposing to amend its regulation that defines ''biological product'' to incorporate changes made by the Biologics Price Competition and Innovation Act of 2009 (BPCI Act), and to provide its interpretation of the statutory terms ''protein'' and ''chemically synthesized polypeptide.'' Under that interpretation, the term *protein* would mean any alpha amino acid polymer with a specific, defined sequence that is greater than 40 amino acids in size. A *chemically synthesized polypeptide* would mean any alpha amino acid polymer that is made entirely by chemical synthesis and is greater than 40 amino acids but less than 100 amino acids in size. This proposed rule is intended to clarify the statutory framework under which such products are regulated.

DATES: Submit either electronic or written comments on the proposed rule by February 25, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 25, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of February 25, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–2732 for ''Definition of the Term 'Biological Product'.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Janice Weiner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6270, Silver Spring, MD 20993, 301–796–3475, *janice.weiner@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Purpose of the Proposed Rule

FDA proposes to amend its regulation that defines ''biological product'' to make a technical revision and to conform to the statutory definition enacted in the BPCI Act. The BPCI Act amended the definition of *biological product* in section 351(i) of the Public Health Service Act (PHS Act) to include a ''protein (except any chemically synthesized polypeptide).'' The proposed rule would make conforming changes to § 600.3 (21 CFR 600.3) to add ''protein'' and ''chemically synthesized polypeptide.''

B. Summary of the Major Provisions of the Proposed Rule

Under the proposed rule, the term *protein* would mean any alpha amino acid polymer with a specific defined sequence that is greater than 40 amino acids in size, and the term *chemically synthesized polypeptide* would mean any alpha amino acid polymer that: (1) Is made entirely by chemical synthesis and (2) is greater than 40 amino acids but less than 100 amino acids in size. This is consistent with interpretations of these terms that FDA previously described in a final guidance document issued on April 30, 2015 (see 80 FR 24259 (announcing the availability of a guidance for industry entitled ''Biosimilars: Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009,'' available at *https://www.regulations.gov* (Docket No. FDA–2011–D–0611) (Biosimilars Q&A Guidance)).

C. Legal Authority

FDA is proposing to amend its regulations to implement certain aspects of the BPCI Act. FDA's authority for this rule derives from the biological product provisions in section 351 of the PHS Act (42 U.S.C. 262), and the provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 321, *et seq.*) applicable to drugs. The rule is necessary to clarify the statutory authority under which biological products are regulated and to prevent inconsistent regulation.

D. Costs and Benefits

This proposed rule would codify FDA's interpretation of the statutory terms ''protein'' and ''chemically synthesized polypeptide'' in a manner that is consistent with interpretations of these terms that FDA previously described in guidance (see Biosimilars Q&A Guidance). Formalizing these interpretations would reduce regulatory uncertainty over whether certain products are regulated as drugs or biological products. This reduced uncertainty, under the ''bright-line'' approach described in the proposed rule, would allow both FDA and private industry to avoid spending hours and resources on case-by-case determinations for each product. Our primary estimate of the benefits from these cost savings in 2017 dollars annualized over 10 years is $340,766 using a 7 percent discount rate and $321,506 using a 3 percent discount rate. We also calculate ranges of benefits of $318,137 to $355,690 and $300,617 to $335,282, respectively. Additionally, drug manufacturers would need to spend time to read and understand the proposed rule. We monetize the time spent by industry and estimate an annualized cost range from $14,471 to $18,089, with a primary estimate of $16,079 using a 7 percent discount rate over a 10-year horizon. For a 3 percent discount rate, we estimate a range of $12,378 to $15,472, with a primary estimate of $13,753.

II. Table of Abbreviations/Commonly Used Acronyms in This Document

Abbreviation/acronym	What it means
BPCI Act	Biologics Price Competition and Innovation Act of 2009.
CFR	Code of Federal Regulations.
FD&C Act	Federal Food, Drug, and Cosmetic Act.
FDA	U.S. Food and Drug Administration.
PHS Act	Public Health Service Act.
U.S	United States.
U.S.C	United States Code.

III. Background

A. Introduction

The BPCI Act amended the definition of *biological product* in section 351(i) of the PHS Act to include a ''protein (except any chemically synthesized polypeptide).'' As amended by the BPCI Act, a *biological product* is defined as ''a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings'' (see section 351(i)(1) of the PHS Act).

The BPCI Act clarified the statutory authority under which certain protein products are to be regulated. Although the majority of therapeutic biological products have been licensed under section 351 of the PHS Act, some protein products historically have been approved under section 505 of the FD&C Act (21 U.S.C. 355). The BPCI Act requires that a marketing application for a ''biological product'' (that previously would have been submitted under section 505 of the FD&C Act) must be submitted under section 351 of the PHS Act, subject to certain exceptions during a 10-year transition period ending on March 23, 2020 (see sections 7002(e)(1) through (3) and (e)(5) of the BPCI Act).

The BPCI Act also amended the PHS Act and other statutes to create an abbreviated licensure pathway in section 351(k) of the PHS Act for biological products shown to be biosimilar to, or interchangeable with, an FDA-licensed biological reference product (see sections 7001 through 7003 of the BPCI Act). The objectives of the BPCI Act are conceptually similar to those of the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (commonly referred to as the ''Hatch-Waxman Amendments''), which established abbreviated pathways for the approval of drug products under section 505(b)(2) and (j) of the FD&C Act. FDA is proposing to provide its interpretation of the terms ''protein'' and ''chemically synthesized polypeptide'' to clarify the statutory framework under which such products are regulated.

B. History of the Rulemaking

On October 5, 2010, the Agency published a notice of public hearing and request for comments concerning implementation of the BPCI Act (75 FR 61497). Information on this public hearing, including the **Federal Register** notice, meeting transcripts, and public comments can be found at *https://www.regulations.gov* (Docket No. FDA–2010–N–0477). In the notice, FDA addressed ''the absence of scientific consensus on the distinction between the categories of 'protein' and 'polypeptide' or 'peptide,' '' and requested comment concerning how these statutory terms should be interpreted. FDA also described its thinking on this topic and sought additional comments by opening a docket for the Agency's draft guidance document on ''Biosimilars: Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009'' (see 77 FR 8885, February 15, 2012; available at *https://www.regulations.gov* (Docket No. FDA–2011–D–0611)) (Biosimilars Q&A Draft Guidance Docket). This draft guidance document issued in 2012 has been superseded by subsequent guidance documents.

FDA reviewed the relevant comments in these public dockets and conducted an extensive analysis of the scientific literature in considering how to interpret ''protein (except any chemically synthesized polypeptide)'' in the amended definition of ''biological product'' in section 351(i) of the PHS Act.

Some comments submitted to the public docket established for the Biosimilars Q&A Draft Guidance supported using the size of the alpha amino acid polymer as the basis for FDA's interpretation of the statutory term ''protein.'' Other comments suggested that FDA should consider structural and/or functional attributes and, for example, interpret the statutory term ''protein'' to mean an alpha amino acid polymer with a specific defined sequence that requires a stable multidimensional conformation for its function and is manufactured by a process that utilizes a biological system. Several comments suggested that FDA interpret the statutory term ''chemically synthesized polypeptide'' to mean any linear chain of alpha amino acids that is made entirely by chemical synthesis, irrespective of the size of the chain. Some, but not all, of these comments also suggested that a chemically synthesized polypeptide should not rely on higher order structure for functionality.

A review of the scientific literature and dictionaries demonstrates consensus on certain aspects of the definitions of the terms ''protein,'' ''polypeptide,'' and ''peptide,'' as well as how the definitions vary.

1. Dictionary Definitions

a. Protein

- ''A complex, high polymer containing carbon, hydrogen, oxygen, nitrogen, and usually sulfur, and composed of chains of amino acids connected by peptide linkages. . . .'' (Ref. 1)
- ''Protein molecules consist of one or several long chains (polypeptides) of amino acids linked in a characteristic sequence.'' (Ref. 2)
- ''A high molecular weight polypeptide of L-amino acids that is synthesized by living cells. Proteins are biopolymers with a wide range of molecular weights, structural complexity, and functional properties.'' (Ref. 3)
- ''Any of a large class of complex organic chemical compounds that. . .consist of long chains of amino acids connected by peptide bonds and have distinct and varied three-dimensional structures.'' (Ref. 4)

b. Polypeptide

- ''The class of compounds composed of acid units chemically bound together with amide linkages (-CO·NH-) with elimination of water. A polypeptide is thus a polymer of amino acids. The chain of amino acids (less than 100) are linked by peptide bonds.'' (Ref. 1)
- ''A peptide comprising 20 or more amino acids. Polypeptides that

constitute proteins usually contain 100–300 amino acids.'' (Ref. 2)

• ''The term [polypeptide] is most often used for proteins, which can consist of one or more polypeptide chains, but can also be used more generally for all amino acid polymers including peptides, polyamino acids, and chemically synthesized polymers of amino acids.'' (Ref. 5)

• ''A linear polymer of more than 10 amino acids that are linked by means of peptide bonds.'' (Ref. 3)

• ''A peptide which on hydrolysis yields more than two amino acids. . . . See peptide.'' (Ref. 6)

c. Peptide

• ''See polypeptide.'' (Ref. 1)

• ''Any of a group of organic compounds comprising two or more amino acids linked by peptide bonds. . . . Polypeptides contain more than 20 and usually 100–300.'' (Ref. 2)

• ''A chemical compound that is composed of a chain of two or more amino acids and is usually smaller than a protein.'' (Ref. 4)

• ''Any member of a class of compounds of low molecular weight which yield two or more amino acids on hydrolysis. . . . Peptides form the constituent parts of proteins.'' (Ref. 6)

• ''Peptides . . . are oligomers in which the repeating units are amino acids. Peptides have a defined sequence of amino acids that are linked together by formation of peptide bonds. In contrast to polypeptides and proteins, peptides consist of a small number of amino acids. The distinction between a peptide and a polypeptide is somewhat arbitrary, but generally a peptide has between 2 and 50 amino acid residues. . . . Most peptides are unstructured, described as having a random coil conformation, but others have highly ordered secondary and tertiary structure similar to that observed in larger proteins.'' (Ref. 5)

2. Textbook Definitions

• ''Most natural polypeptide chains contain between 50 and 2000 amino acid residues and are commonly referred to as proteins. Peptides made of small numbers of amino acids are called oligopeptides or simply peptides.'' (Ref. 7)

• ''Proteins are molecules that consist of one or more polypeptide chains. These polypeptides range in length from ~40 to ~33,000 amino acid residues.'' (Ref. 8)

• ''Proteins consist of one or more linear polymers called polypeptides . . . a minimum of 40 residues seems to be required for a polypeptide to adopt a stable three-dimensional structure in water.'' (Ref. 9)

• ''Many terms are used to denote the chains formed by the polymerization of amino acids. A short chain of amino acids linked by peptide bonds and having a defined sequence is called an oligopeptide, or just peptide; longer chains are referred to as polypeptides. Peptides generally contain fewer than 20–30 amino acid residues, whereas polypeptides are often 200–500 residues long.'' (Ref. 10)

• ''A protein molecule is made from a long chain of these amino acids, each linked to its neighbor through a covalent peptide bond. Proteins are therefore also known as polypeptides. Each type of protein has a unique sequence of amino acids. . . . Proteins come in a wide variety of shapes, and they are generally between 50 and 2000 amino acids long.'' (Ref. 11)

As the previous examples demonstrate, sources disagree over certain aspects of the definitions of these terms, especially the term ''polypeptide.''

At the same time, despite the lack of precise, agreed-upon definitions, most, if not all, sources agree about certain aspects of the meanings of these terms. These areas of agreement may be summarized in the following manner. First, all of the terms (*protein, polypeptide,* and *peptide*) refer to amino acid polymers (''chains'') made up of alpha amino acids linked by peptide bonds. Second, *protein* refers to chains containing a specific, defined sequence of amino acids, generally provided by a corresponding DNA or RNA sequence. As noted in one biochemistry textbook: ''In 1953, Frederick Sanger determined the amino acid sequence of insulin, a protein hormone [figure omitted]. *This work is a landmark in biochemistry because it showed for the first time that a protein has a precisely defined amino acid sequence.*'' (Ref. 7) (emphasis in original). Finally, *peptide* is a term distinct from *protein.* Most sources agree that the term *peptide* generally refers to smaller, simpler chains of amino acids, while *protein* is used to refer to longer, more complex chains. Based on these areas of agreement, the generally accepted meanings of *protein, polypeptide,* and *peptide* appear to include the following: All three terms refer to amino acid polymers. *Proteins* are long, complex polymers of alpha amino acids. Each protein has a specific, defined sequence. *Peptides* are distinct from proteins.

In applying its scientific expertise to interpret the statutory terms ''protein'' and ''chemically synthesized polypeptide,'' FDA seeks to establish a scientifically reasonable, bright-line rule that provides regulatory clarity and facilitates the implementation of the BPCI Act. A clear rule facilitates efficient use of time and resources by both FDA and applicants and reduces regulatory uncertainty.

Under the Agency's proposed interpretation, the term ''protein'' in the amended definition of *biological product* would not include peptides. In general, most scientific sources describe the term *protein* as excluding ''peptides'' (*i.e.,* amino acid polymers or ''chains'' that are generally shorter and simpler than proteins). Thus, to the extent that there is a generally accepted meaning of ''protein,'' peptides appear to be outside the scope of the term.

With these considerations in mind, FDA is proposing a size-based cutoff for distinguishing peptides from proteins that is supported by scientific sources. This approach reflects the Agency's conclusion that, other than size, there does not appear to be a precise set of structural or functional attributes that would define a protein so as to clearly distinguish proteins from peptides. Specifically, for purposes of interpreting the BPCI Act, the Agency is proposing to codify that ''*protein* (except any chemically synthesized polypeptide)'' would mean any alpha amino acid polymer with a specific, defined sequence that is greater than 40 amino acids in size. This threshold, based on a single, well-defined criterion, would supply a clear, bright-line rule.

IV. Legal Authority

FDA's authority for this proposed rule derives from the biological product provisions in section 351 of the PHS Act and the provisions of the FD&C Act (21 U.S.C. 321, *et seq.*) applicable to drugs. Under these provisions of the PHS Act and the FD&C Act, FDA has the authority to issue regulations designed to ensure, among other things, that biological products are safe, pure, and potent and manufactured in accordance with current good manufacturing practices. FDA also has general authority to issue regulations for the efficient enforcement of the FD&C Act and the PHS Act, under section 701 of the FD&C Act (21 U.S.C. 371) and section 351(j) of the PHS Act.

V. Description of the Proposed Rule

This proposed rule would amend the definition of *biological product* in § 600.3(h) to make a technical revision and to conform to changes in the statutory definition of ''biological product'' made by the BPCI Act.

We are proposing to revise the definition of *biological product* in

§ 600.3(h) by replacing the phrase ''means any'' with the phrase ''means a'' to conform to the text of section 351(i)(1) of the PHS Act. This proposed technical revision to the definition of *biological product* is not intended to alter our interpretation of § 600.3(h).

We also are proposing to define a *biological product* in § 600.3(h) to include a ''protein (except any chemically synthesized polypeptide).'' We are proposing to add paragraphs (h)(6) and (7) to this section to provide our interpretation of the terms ''protein'' and ''chemically synthesized polypeptide.''

Under the proposed rule, the term *protein* would mean any alpha amino acid polymer with a specific, defined sequence that is greater than 40 amino acids in size. FDA's proposed interpretation of this statutory term is informed by several factors. The scientific literature describes a *protein* as a defined sequence of alpha amino acid polymers linked by peptide bonds and generally excludes ''peptides'' from the category of ''protein.'' Similarly, a *peptide* generally refers to polymers that are smaller, perform fewer functions, contain less three-dimensional structure, are less likely to be post-translationally modified, and, therefore, are generally characterized more easily than proteins. Consistent with the scientific literature, FDA is proposing to codify its interpretation of the term ''protein'' in a manner that does not include peptides. To enhance regulatory clarity and minimize administrative complexity, FDA is proposing to codify an approach that distinguishes proteins from peptides based solely on size (*i.e.,* number of amino acids).

In the absence of clear scientific consensus on definitive criteria that distinguish proteins from peptides, including the exact size at which a chain(s) of amino acids becomes a protein, FDA reviewed the pertinent literature and concluded that a threshold of 40 amino acids is appropriate for defining the upper size boundary of a peptide. Although there also is support in the scientific literature for a threshold of 50 amino acids, FDA believes that a threshold of 40 amino acids is more appropriate based on the scientific literature and alignment with current regulatory practice (see Refs. 5, 7, 8, 9, 11). FDA's proposal to use a threshold of 40 amino acids for its ''bright-line'' approach reflects that amino acid polymers that are greater than 40 amino acids may often assume several of the structural and functional characteristics that are generally associated with proteins, lending a higher level of complexity to these products. Accordingly, FDA proposes to consider any polymer composed of 40 or fewer amino acids to be a peptide and not a protein. Therefore, unless a peptide otherwise meets the statutory definition of a ''biological product,'' it would be regulated as a drug under the FD&C Act.

Where an amino acid polymer is greater than 40 amino acids in size and is related to a naturally occurring peptide (*i.e.,* a polymer that is 40 or fewer amino acids in size), such a polymer would be reviewed to determine whether the additional amino acids that cause the peptide to exceed 40 amino acids in size raise any concerns about the risk/benefit profile of the product.

Some amino acid polymers are composed of multiple amino acid chains that are associated with each other. To determine the size of such an amino acid polymer for purposes of FDA's interpretation of the terms ''protein'' and ''chemically synthesized polypeptide,'' FDA would evaluate whether two or more of its amino acid chains are associated in a manner that is found in naturally occurring proteins. In proposed § 600.3(h)(6) and (7), FDA explains that when two or more amino acid chains in an amino acid polymer are associated with each other in a manner that occurs in nature, the size of the amino acid polymer would be based on the total number of amino acids in those chains, and would not be limited to the number of amino acids in a contiguous sequence. In other words, the amino acids in each such amino acid chain would be added together to determine whether the product meets the numerical threshold in FDA's interpretation of the terms ''protein'' and ''chemically synthesized polypeptide.'' However, for products with amino acid chains that are associated with each other in a manner that is not found in nature (*i.e.,* amino acid chains that are associated with each other in a novel manner that is not found in naturally occurring proteins), FDA would conduct a fact-specific, case-by-case analysis to determine whether the size of the amino acid polymer, for purposes of this definition, should be based on adding each of the amino acids in the amino acid chains together, or should be based on separate consideration of the amino acid chains (*e.g.,* the number of amino acids in the largest chain). In such cases, FDA would consider in its analysis, among other things, any structural or functional characteristics of the product.

The proposed rule would define *chemically synthesized polypeptide* to mean any alpha amino acid polymer that: (1) Is made entirely by chemical synthesis and (2) is greater than 40 amino acids but less than 100 amino acids in size. As amended by the BPCI Act, the term ''protein'' specifically excludes chemically synthesized polypeptides. Thus, chemically synthesized polypeptides will continue to be regulated as drugs under the FD&C Act unless the product meets the statutory definition of a ''biological product'' on another basis.

Where an amino acid polymer is greater than 99 amino acids in size and is related to a naturally occurring peptide or polypeptide of shorter length, such a polymer would be reviewed to determine whether the additional amino acids that cause the polymer to exceed 99 amino acids in size raise any concerns about the risk/benefit profile of the product.

FDA's proposed interpretation of this statutory term is informed by several factors. The statutory category of ''protein'' parenthetically excludes ''any chemically synthesized polypeptide.'' There are several definitions of *polypeptide* in the scientific literature. Some are broad (*e.g.,* polypeptide means any amino acid polymer), while others are more narrow (*e.g.,* polypeptide means any amino acid polymer composed of fewer than 100 amino acids). FDA believes that a narrow definition of polypeptide is most appropriate in this context because, among other reasons, this avoids describing an exception to the statutory category of protein that includes a broader category of molecules. In addition, FDA believes that any chemically synthesized polypeptide composed of more than 99 amino acids would have, among other characteristics, a level of structural and functional complexity and sensitivity to environmental conditions that makes regulating such a protein under the same statutory authority as the majority of proteins more appropriate. Moreover, a narrow definition of polypeptide means that larger and/or more complex proteins (*i.e.,* amino acid polymers composed of more than 99 amino acids) are considered to be biological products regardless of their method of manufacture. This approach also addresses the concern raised in a public comment ''that reliance on the mode of manufacture will create incentives for a manufacturer to choose a process that may be suboptimal solely to enable its product to be regulated under a particular statute'' (Biosimilars Q&A Draft Guidance Docket). Therefore, FDA proposes to interpret the statutory exclusion for *chemically synthesized polypeptide* narrowly to mean any

molecule that is made entirely by chemical synthesis and that is composed of greater than 40 amino acids but less than 100 amino acids in size. The phrase ''made entirely by chemical synthesis'' would mean that all amino acids in the peptide chain were added to the peptide by a synthetic process that does not involve any synthesis of any portion of the peptide using cell-based or cell-free recombinant-DNA-directed synthesis or recombinant-RNA-directed synthesis. Chemically synthesized polypeptides would be regulated as drugs under the FD&C Act unless the molecule otherwise meets the statutory definition of a ''biological product.'' For example, vaccines are specifically identified as biological products under the statutory definition in section 351(i) of the PHS Act irrespective of their size, content, or method of manufacture. Accordingly, vaccines will continue to be regulated as such under the PHS Act, even if they contain, or are composed of, an amino acid chain of 40 or fewer amino acids and/or a chemically synthesized polypeptide composed of greater than 40 amino acids but less than 100 amino acids in size.

FDA seeks comment on any additional considerations for proposed products that are combination products or meet the statutory definition of both a ''device'' and a ''biological product.'' We also encourage prospective sponsors or applicants to contact FDA with product-specific questions. Any final rule that results from this proposed rule will become effective 60 days after publication in the **Federal Register** or on March 23, 2020, the end of the 10-year transition period specified in the BPCI Act, whichever is earlier (see sections 7002(e)(1) through (3) and (e)(5) of the BPCI Act).

VI. Proposed Effective Date

If finalized, this rule would take effect 60 days after publication in the **Federal Register** or on March 23, 2020, whichever is earlier.

VII. Economic Analysis of Impacts

A. Introduction

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that this proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule does not impose new regulatory burden on small entities, other than administrative costs of reading and understanding the rule, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $150 million, using the most current (2017) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

B. Summary of Costs and Benefits

This proposed rule would codify FDA's interpretation of the statutory terms ''protein'' and ''chemically synthesized polypeptide,'' in a manner that is consistent with interpretations of these terms that FDA previously described in the April 30, 2015, guidance (see Biosimilars Q&A Guidance). Formalizing these interpretations would reduce regulatory uncertainty introduced by the BPCI Act. Specifically, the proposed rule would clarify the criteria for whether certain products are regulated as drugs or biological products. The ''bright-line'' approach under the proposed rule would reduce the amount of time spent by FDA staff and industry in support of making such determinations.

In this regulatory impact analysis, we identify the products most likely to require a case-by-case determination under the baseline scenario. Under the proposed rule, these determinations would be made by FDA according to the bright-line standard proposed. We calculate the cost savings from the amount of time saved by both FDA and industry by avoiding a case-by-case determination. We also calculate the incremental costs to industry that are the result of reading and understanding the rule.

The primary estimate of the benefits in 2017 dollars annualized over 10 years is $340,766 using a 7 percent discount rate and $321,506 using a 3 percent discount rate. We also calculate ranges of benefits of $313,373 to $355,690 and $296,220 to $335,282, respectively. The estimated annualized costs range from $14,471 to $18,089, with a primary estimate of $16,079 using a 7 percent discount rate over a 10-year horizon. For a 3 percent discount rate, we estimate a range of $12,378 to $15,472, with a primary estimate of $13,753. These figures are shown in table 1 below.

TABLE 1—SUMMARY OF BENEFITS, COSTS, AND DISTRIBUTIONAL EFFECTS OF PROPOSED RULE

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate	Period covered	
Benefits:							
Annualized Monetized $/year	$340,766	$313,373	$355,690	2017	7	10	Cost savings to FDA and industry to avoid case-by-case review of applications.
	$321,506	$296,220	$335,282	2017	3	10	
Annualized Quantified	.....	.....	.....	.....	7		
	.....	.....	.....	.....	3		
Qualitative.							
Costs:							
Annualized Monetized $/year	$16,079	$14,471	$18,089	2017	7	10	Costs of reading the rule.
	$13,753	$12,378	$15,472	2017	3	10	

TABLE 1—SUMMARY OF BENEFITS, COSTS, AND DISTRIBUTIONAL EFFECTS OF PROPOSED RULE—Continued

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate	Period covered	
Annualized Quantified					7		
					3		
Qualitative.							
Transfers:							
Federal Annualized Monetized $/ year.					7		
					3		
From/To	From:			To:			
Other Annualized Monetized $/ year.					7		
					3		
From/To	From:			To:			
Effects:							
State, Local or Tribal Government:							
Small Business:							
Wages:							
Growth:							

In line with Executive Order 13771, in table 2 we estimate present and annualized values of costs and cost savings over an infinite time horizon. Based on these cost savings, this proposed rule would be considered a deregulatory action under Executive Order 13771.

TABLE 2—EO 13771 SUMMARY TABLE

[In 2016 dollars, over a perpetual time horizon]

	Primary (7%)	Lower bound (7%)	Upper bound (7%)	Primary (3%)	Lower bound (3%)	Upper bound (3%)
Present Value of Costs	$110,574	$99,517	$124,396	$114,868	$103,382	$129,227
Present Value of Cost Savings	$2,891,315	$2,993,948	$2,702,931	$4,556,396	$4,671,456	$4,345,200
Present Value of Net Costs	−$2,780,741	−$2,894,431	−$2,578,534	−$4,441,527	−$4,568,074	−$4,215,973
Annualized Costs	$7,740	$6,966	$8,708	$3,446	$3,101	$3,877
Annualized Cost Savings	$202,392	$209,576	$189,205	$136,692	$140,144	$130,356
Annualized Net Costs	−$194,652	−$202,610	−$180,497	−$133,246	−$137,042	−$126,479

C. Summary of Regulatory Flexibility Analysis

To determine the impact of the proposed rule on small entities, we first determined how many firms would be affected. We estimate that at least 1,615 firms classified in the Pharmaceutical and Medicine Manufacturing industry employ fewer than 1,250 employees and are therefore also classified as small businesses. Although a large number of small businesses will face costs under the proposed rule, the costs to these firms would be limited to the time burden of reading the proposed rule. We estimate that the time burden of reading the rule would be about $77 per firm, with a lower bound of $69 and upper bound of $86. This range of costs is unlikely to have a significant adverse impact on a substantial number of small entities.

We have developed a comprehensive Preliminary Economic Analysis of Impacts that assesses the impacts of the proposed rule. The full preliminary analysis of economic impacts is available in the docket for this proposed rule (Ref. 12) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

VIII. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this proposed rule is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

X. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that the rule does not contain policies that would 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. The Agency solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

XI. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that this proposed rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive

order and, consequently, a federalism summary impact statement is not required.

XII. References

The following reference marked with an asterisk (*) is on display in the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *https://www.regulations.gov.* References without asterisks are not available for electronic viewing because they have copyright restriction, or they are available as published articles and books, but these references are available for viewing by interested persons at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

FDA has verified the website address, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Larrañaga, M.D., R.J. Lewis Sr., and R.A. Lewis, *Hawley's Condensed Chemical Dictionary,* 16th ed., New Jersey: Wiley (2016), s.vv. ''peptide,'' ''polypeptide,'' ''protein.''
2. Daintith, J. and E. Martin, *Dictionary of Science,* 6th ed., Oxford: Oxford University Press (2010), s.vv. ''peptide,'' ''polypeptide,'' ''protein.''
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5. Creighton, T.E., *Encyclopedia of Molecular Biology,* New Jersey: Wiley (1999), s.vv. ''peptide,'' ''polypeptide.''
6. Newman, W.A., *Dorland's Illustrated Medical Dictionary,* 28th ed., Pennsylvania: W.B. Saunders Co. (1994), s.vv. ''peptide,'' ''polypeptide.''
7. Berg, J., J. Tymoczko, and L. Stryer, *Biochemistry,* 5th ed., New York: W.H. Freeman (2002), pp. 52–53.
8. Voet, D. and J. Voet, *Biochemistry,* 3rd ed., New Jersey: Wiley (2004), p. 68.
9. Pollard, T., W. Earnshaw, et al., *Cell Biology,* New York: Elsevier (2002), p. 21.
10. Lodish, H., A. Berk, C.A. Kaiser, et al., *Molecular Cell Biology,* 6th ed., London, U.K., W.H. Freeman (2007), p. 66.
11. Alberts, B., A. Johnson, J. Lewis, et al., *Molecular Biology of the Cell,* 4th ed., New York: Garland Science (2002), pp. 129, 135.
* 12. Preliminary Regulatory Impact Analysis, Initial Regulatory Flexibility Analysis, and Unfunded Mandates Reform Act Analysis for Definition of the Term ''Biological Product''; Proposed Rule, 2018, available at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

List of Subjects in 21 CFR Part 600

Biologics, Reporting and recordkeeping requirements.

Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR part 600 be amended as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 356c, 356e, 360, 360i, 371, 374, 379k–1; 42 U.S.C. 216, 262, 263, 263a, 264, 300aa–25.

■ 2. Amend § 600.3 by revising paragraph (h) introductory text and by adding paragraphs (h)(6) and (7) to read as follows:

§ 600.3 Definitions.

* * * * *

(h) *Biological product* means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings:

* * * * *

(6) A protein is any alpha amino acid polymer with a specific, defined sequence that is greater than 40 amino acids in size. When two or more amino acid chains in an amino acid polymer are associated with each other in a manner that occurs in nature, the size of the amino acid polymer for purposes of this paragraph (h)(6) will be based on the total number of amino acids in those chains, and will not be limited to the number of amino acids in a contiguous sequence.

(7) A chemically synthesized polypeptide is any alpha amino acid polymer that is made entirely by chemical synthesis and is greater than 40 amino acids but less than 100 amino acids in size. When two or more amino acid chains in an amino acid polymer are associated with each other in a manner that occurs in nature, the size of the amino acid polymer for purposes of this paragraph (h)(7) will be based on the total number of amino acids in those chains, and will not be limited to the number of amino acids in a contiguous sequence.

* * * * *

Dated: December 6, 2018.

Scott Gottlieb,

Commissioner of Food and Drugs.

[FR Doc. 2018–26840 Filed 12–11–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2018–0008; Notice No. 177]

RIN 1513–AC40

Proposed Establishment of the West Sonoma Coast Viticultural Area

Correction

In proposed rule document 2018–26321 beginning on page 62750 in the issue of Thursday, December 6, 2018, make the following correction:

On page 62751, in the first column, in the **DATES** heading, the second line, ''January 7, 2018'' should read ''February 4, 2018''.

[FR Doc. C1–2018–26321 Filed 12–11–18; 8:45 am]

BILLING CODE 1301–00–D

Notices

Federal Register
Vol. 83, No. 238
Wednesday, December 12, 2018

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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0080]

Notice of Request for Reinstatement of Approval of an Information Collection; Cooperative State-Federal Brucellosis Eradication Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of approval of an information collection associated with the Cooperative State-Federal Brucellosis Eradication Program.

DATES: We will consider all comments that we receive on or before February 11, 2019.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0080.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0080, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0080* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Cooperative State-Federal Brucellosis Eradication Program, contact Dr. Mark Camacho, National Cattle Health Epidemiologist, Surveillance, Preparedness, and Response Services, Veterinary Services, APHIS, 920 Campus Drive, Suite 200, Raleigh, NC 27606; (919) 855–7249. For more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Cooperative State-Federal Brucellosis Eradication Program.

OMB Control Number: 0579–0047.

Type of Request: Reinstatement of approval of an information collection.

Abstract: The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry pest or disease.

Disease prevention and disease surveillance are the most effective methods for maintaining a healthy animal population and for enhancing the United States' ability to compete in the world market of animal and animal product trade. The Veterinary Services (VS) unit of the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) is responsible for administering regulations intended to protect the health of the U.S. livestock population.

Brucellosis is an infectious disease of animals and humans caused by bacteria of the genus *Brucella.* The disease is characterized by abortions and impaired fertility in its principal animal hosts. The disease infects humans through contact with infected animals or with certain body fluids of infected animals. Usually *Brucella abortus* is associated with the disease in cattle or bison, *Brucella suis* with the disease in swine, and *Brucella melitensis* with the disease in sheep and goats. The continued presence of brucellosis in a herd seriously threatens the health, welfare, and economic viability of the livestock industry. There is no economically feasible treatment for brucellosis in livestock.

The Cooperative State-Federal Brucellosis Eradication Program is a national program to eliminate this serious disease of livestock. The program is conducted under the authority of the various States and supplemented by Federal authorities regulating interstate movement of infected animals. Regulations in 9 CFR part 78 outline the Cooperative State-Federal Brucellosis Eradication Program. The regulations include required surveillance, epidemiological investigation, annual reporting, and interstate movement activities that must be documented.

Minimum program standards known as the Brucellosis Eradication Uniform Methods and Rules (UM&R) have been developed cooperatively by organizations representing the livestock industry, State animal health agencies, and the USDA. State and Federal officials in charge of program activities in each State are responsible for continuously evaluating the efficiency of local procedures in locating and eliminating infected livestock. The minimum standards in the UM&R must be met or exceeded throughout the certification period to maintain continuous status. Meeting these standards requires information collection.

Information is generally collected by State and Federal animal health officials through interviews or reviewing records. In addition, the information on some documents may be collected by private veterinary practitioners (*i.e.,* test charts, vaccination records, and official Certificates of Veterinary Inspection) or blood collection personnel on contract (*i.e.,* market cattle slaughter surveillance blood collection forms and brucellosis ring testing milk sample collection forms). The information is collected at the time each appropriate event occurs. In most instances, information is collected when testing or vaccinating individual animals or herds, applying official identification to animals, or conducting surveillance or epidemiological investigation activities. Some events, such as market cattle slaughter surveillance, occur daily. Other events, such as on-farm blood testing and vaccination, occur as part of

routine animal health management. A few events, such as infected-herd investigations, occur only a few times a year.

In addition, the bovine brucellosis program regulations in part 78 provide a system for classifying States or portions of States according to the rate of *B. abortus* infection present and the general effectiveness of a brucellosis control and eradication program. The program also provides for the creation of brucellosis management areas within a State and for testing and movement mitigation activities before regulated animals are permitted to move interstate. This system enhances the ability of States to move healthy, brucellosis-free cattle and bison interstate and internationally. This management area and testing system also enhances the effectiveness of the Brucellosis Eradication Program by decreasing the likelihood that infected animals will be moved interstate or internationally.

The creation of brucellosis management areas allows States that have found *B. abortus* in wildlife (which are nonregulated animals) to mitigate the risk of transmission and spread of disease while maintaining the State's disease-free status in regulated domestic livestock. The State must sign a memorandum of understanding with the Administrator that describes its brucellosis management plan. The brucellosis management plan developed by the State must define the geographic brucellosis management area and describe the surveillance and mitigation activities that the State will conduct to identify occurrence of *B. abortus* in domestic livestock and wildlife and potential risks for spread of the disease.

We are asking Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Commercial livestock farm owners and managers; animal agriculture-related business owners and managers; private veterinarians; animal agriculture-related agencies and organizations; breed registry agencies; agriculture extension agents; fair and exhibition officials; owners, operators, and managers of livestock markets; owners, operators, and managers of slaughter establishments and dairy plants; and State animal health officials and laboratory personnel (including wildlife biologists).

Estimated annual number of respondents: 82,884.

Estimated annual number of responses per respondent: 12.

Estimated annual number of responses: 955,943.

Estimated total annual burden on respondents: 241,387 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 6th day of December 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–26862 Filed 12–11–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–167–2018]

Approval of Subzone Status: Schumacher Electric Corporation, Fort Worth, Texas

On October 17, 2018, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Metroplex International Trade Development Corporation, grantee of FTZ 168, requesting subzone status subject to the existing activation limit of FTZ 168, on behalf of Schumacher Electric Corporation, in Fort Worth, Texas.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 53212, October 22, 2018). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 168F was approved on December 6, 2018, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 168's 1,955.59-acre activation limit.

Dated: December 6, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–26872 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–173–2018]

Approval of Subzone Status: BAUER-Pileco Inc., Conroe, Texas

On October 19, 2018, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Port of Houston Authority, grantee of FTZ 84, requesting subzone status subject to the existing activation limit of FTZ 84, on behalf of BAUER-Pileco Inc., in Conroe, Texas.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 53850, October 25, 2018). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 84Z was approved on December 6, 2018, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 84's 2,000-acre activation limit.

Dated: December 6, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–26871 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–867]

Welded Stainless Pressure Pipe From India: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that producers/exporters subject to this review made sales of subject merchandise at less than normal value during the May 10, 2016, through October 31, 2017, period of review (POR). We invite interested parties to comment on these preliminary results.

DATES: Applicable December 12, 2018.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Stephanie Berger, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4243 and (202) 482–2483, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty (AD) order on welded stainless pressure pipe (WSPP) from India.[1] We selected two companies, Bhandari Foils & Tubes, Ltd. (Bhandari) and Hindustan Inox, Ltd. (Hindustan Inox), for individual examination.[2] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as an Appendix to this notice.

Scope of the Order [4]

The merchandise covered by this order is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of this scope, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this order is dispositive.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1) and (2) of Tariff Act of 1930, as amended (the Act). Export price and constructed export price were calculated in accordance with section 772 of the Act. Normal value was calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

We preliminarily determine the following weighted-average dumping margins exist for the POR:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Bhandari Foils & Tubes, Ltd	7.19
Hindustan Inox, Ltd	2.03
Apex Tubes Private Ltd	[5] 3.89
Apurvi Industries	3.89
Arihant Tubes	3.89
Divine Tubes Pvt. Ltd	3.89
Heavy Metal & Tubes	3.89
J.S.S. Steelitalia Ltd	3.89
Linkwell Seamless Tubes Private Limited	3.89
Maxim Tubes Company Pvt. Ltd	3.89
MBM Tubes Pvt. Ltd	3.89
Mukat Tanks & Vessel Ltd	3.89
Neotiss Ltd	3.89
Prakash Steelage Ltd	3.89
Quality Stainless Pvt. Ltd	3.89
Raajratna Metal Industries Ltd	3.89
Ratnadeep Metal & Tubes Ltd	3.89
Ratnamani Metals & Tubes Ltd	3.89
Remi Edelstahl Tubulars	3.89
Shubhlaxmi Metals & Tubes Private Limited	3.89
SLS Tubes Pvt. Ltd	3.89
Steamline Industries Ltd	3.89

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.

If the weighted-average dumping margin for the mandatory respondents (*i.e.,* Bhandari and Hindustan Inox) is not zero or *de minimis* (*i.e.,* less than 0.5 percent), we will calculate importer-specific *ad valorem* AD assessment rates based on the ratio of the total amount of dumping calculated for the importers examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[6] We will

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 1329 (January 11, 2018) (*Initiation Notice*).

[2] *See* memorandum, ''First Antidumping Duty Administrative Review of Welded Stainless Pressure Pipe from India: Respondent Selection,'' dated February 2, 2018.

[3] *See* memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Welded Stainless Pressure Pipe from India, 2016–2017,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] For the full text of the scope of the order, *see* the Preliminary Decision Memorandum.

[5] This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis* or based entirely on facts available. *See* section 735(c)(5)(A) of the Act. *See also See* Memorandum, ''Welded Stainless Pressure Pipe from India: Calculation of the All-Others Rate in the Preliminary Results of Antidumping Duty Administrative Review; 2016–2017,'' dated concurrently with this notice.

[6] In these preliminary results, Commerce applied the assessment rate calculation method adopted in Antidumping Proceedings: *See Calculation of the*

Continued

instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.,* 0.5 percent). Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review where applicable.

For the companies which were not selected for individual review, we will assign an assessment rate based on the weighted-average of the cash deposit rates calculated for the companies selected for mandatory review (*i.e.,* Bhandari and Hindustan), excluding any which are zero, *de minimis,* or determined entirely on adverse facts available. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[7]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by each respondent for which they did not know that their merchandise was destined for the United States, we will instruct CBP to liquidate entries not reviewed at the all-others rate of 8.35 percent if there is no rate for the intermediate company(ies) involved in the transaction.[8] We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of WSPP from India entered, or withdrawn from warehouse, for consumption on or after the date of publication provided by section 751(a)(2) of the Act: (1) The cash deposit rate for each company listed above will be equal to the dumping margins established in the final results of this review except if the ultimate rates are *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rates will be zero; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 8.35 percent, the all-others rate established in the antidumping investigation.[9] These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.[10] Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[11] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a summary of the argument, and (3) a table of authorities.[12] All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system within 30 days of publication of this notice.[13] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined.[14] Parties should confirm by telephone the date, time, and location of the hearing.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their case briefs, within 120 days after issuance of these preliminary results.

Notification To Importers

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

These preliminary results of review is are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: December 3, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum:

I. Summary
II. Background
III. Scope of the Order
IV. Rates for Respondents Not Selected for Individual Examination
V. Discussion of the Methodology
  A. Comparisons to Normal Value
  B. Determination of the Comparison Method
  C. Results of the Differential Pricing Analysis
VI. Date of Sale
VII. Product Comparisons
VIII. Export Price
IX. Normal Value
  A. Home Market Viability
  B. Affiliated-Party Transactions and Arm's-Length Test
  C. Level of Trade
  D. Cost of Production Analysis
  E. Calculation of NV Based on Comparison Market Prices

Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012).

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

[8] *See Order.*

[9] *Id.*

[10] *See* 19 CFR 351.224(b).

[11] *See* 19 CFR 351.309(d).

[12] *See* 19 CFR 351.309(c)(2) and (d)(2).

[13] *See* 19 CFR 351.310(c).

[14] *See* 19 CFR 351.310.

X. Currency Conversion
XI. Recommendation

[FR Doc. 2018–26815 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2017

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that eight companies, including the mandatory respondent, Decca Furniture Ltd. (Decca), have not established their entitlement to a separate rate and are part of the China-wide entity, and that five companies had no reviewable transactions during the January 1, 2017, through December 31, 2017, period of review (POR). We invite interested parties to comment on these preliminary results.

DATES: Applicable December 12, 2018.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0989.

SUPPLEMENTARY INFORMATION:

Background

After initiating this review with respect to 73 companies or company groupings,[1] interested parties withdrew all review requests for 60 of the 73 companies. Thus, Commerce rescinded this review with respect to those companies.[2] On June 20, 2018, Commerce issued an antidumping duty questionnaire to Decca, the only company under review that filed a separate rate application. Decca did not respond to the questionnaire. For a complete description of the events that followed the initiation of this administrative review, see the Preliminary Decision Memorandum which is hereby adopted by this notice.[3]

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The product covered by the *Order* is wooden bedroom furniture, subject to certain exceptions.[4] Imports of subject merchandise are classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 9403.90.7005, 9403.90.7080, 9403.50.9041, 9403.60.8081, 9403.20.0018, 9403.90.8041, 7009.92.1000 or 7009.92.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description in the *Order* remains dispositive.[5]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213. For a full description of the methodology underlying our preliminary results of review, *see* the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is provided in the Appendix to this notice.

Preliminary Determination of No Shipments

Because U.S. Customs and Border Protection (CBP) did not provide any information contradicting the claims of five of the companies under review which claimed to have made no shipments, Commerce preliminarily determines that these five companies did not have any reviewable transactions during the POR.[6] For additional information regarding this determination, *see* the Preliminary Decision Memorandum. Consistent with Commerce's practice in non-market economy (NME) cases, Commerce is not rescinding this AR, in part, with respect to these five companies, but intends to complete the review with respect to the companies for which it has preliminarily found no shipments and issue appropriate instructions to CBP based on the final results of the review.[7]

Separate Rates

Decca was the only company under review that submitted a separate rate application, and Commerce issued the antidumping duty questionnaire to Decca as the sole mandatory respondent. However, as noted above, Decca did not respond to Commerce's antidumping duty questionnaire. Therefore, Commerce preliminarily determines that Decca did not establish its eligibility for separate rate status. In addition, seven other companies for which a review was requested failed to provide separate rate applications or certifications.[8] Therefore, Commerce preliminarily determines that these eight companies are part of the China-wide entity. Because no party requested a review of the China-wide entity, the entity is not under review, and the entity's dumping margin of 216.01 percent is not subject to change.[9] For

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 11685 (March 16, 2018) (*Initiation Notice*).

[2] *See Wooden Bedroom Furniture from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review,* 83 FR 45607 (September 10, 2018).

[3] *See* ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Wooden Bedroom Furniture from the People's Republic of China,'' from James Maeder, Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping Duty and Countervailing Duty Operations, to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance (Preliminary Decision Memorandum), dated concurrently with this notice.

[4] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China,* 70 FR 329 (January 4, 2005) (*Order*).

[5] For a complete description of the scope of the *Order,* please *see* the Preliminary Decision Memorandum.

[6] The five companies/company groupings are: (1) Dongguan Sunrise Furniture Co., Ltd., Taicang Sunrise Wood Industry Co., Ltd., Taicang Fairmount Designs Furniture Co., Ltd., Meizhou Sunrise Furniture Co., Ltd.; (2) Dongguan Sunrise Furniture Co., Taicang Sunrise Wood Industry Co., Ltd., Shanghai Sunrise Furniture Co. Ltd., Fairmont Designs; (3) Eurosa (Kunshan) Co., Ltd., Eurosa Furniture Co., (PTE) Ltd.; (4) Shenyang Shining Dongxing Furniture Co., Ltd. (Shenyang Shining); and (5) Yeh Brothers World Trade Inc.

[7] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

[8] The seven companies are: (1) Dongguan Kingstone Furniture Co., Ltd.; Kingstone Furniture Co., Ltd.; (2) Kunshan Summit Furniture Co., Ltd.; (3) Qingdao Liangmu Co., Ltd.; (4) Restonic (Dongguan) Furniture Ltd.; Restonic Far East (Samoa) Ltd.; (5) Rizhao Sanmu Woodworking Co., Ltd.; (6) Techniwood Industries Ltd.; Ningbo Furniture Industries Ltd.; Ningbo Hengrun Furniture Co., Ltd.; and (7) Zhangjiagang Zheng Yan Decoration Co., Ltd.

[9] *See Second Amended Final Results of Antidumping Duty Administrative Review: Wooden Bedroom Furniture from the People's Republic of China,* 72 FR 62834 (November 7, 2007).

additional information regarding this determination, *see* the Preliminary Decision Memorandum.

Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments, filed electronically using ACCESS, within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this review are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2).

Any interested party may request a hearing within 30 days of publication of this notice.[10] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the case briefs. If a request for a hearing is made, parties will be notified of the time and date of the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[11]

Unless extended, Commerce intends to issue the final results of this AR, which will include the results of its analysis of issues raised in any briefs received, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuing the final results of this review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[12] Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. We intend to instruct CBP to liquidate entries of subject merchandise exported by the China-wide entity, including Decca and the other seven companies noted above which did not qualify for separate rate status, at the China-wide rate. Additionally, pursuant to Commerce's practice in NME cases, if we continue to determine that the five companies noted above had no shipments of subject merchandise, any suspended entries of subject merchandise during the POR under their case numbers will be liquidated at the China-wide rate.[13]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed China and non-China exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity, which is 216.01 percent; and (3) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-China exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification To Importers

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

Notification To Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.(b)(4).

Dated: December 3, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

(1) Summary
(2) Background
(3) Scope of the Order
(4) Discussion of the Methodology
  a. NME Country Status
  b. Separate Rates
  c. Preliminary Determination of No Shipments
(5) Conclusion

[FR Doc. 2018–26870 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–828; A–823–805]

Silicomanganese From the People's Republic of China and Ukraine: Continuation of the Antidumping Duty Orders

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

SUMMARY: As a result of determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty (AD) orders on silicomanganese from the People's Republic of China (China) and Ukraine would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD orders on silicomanganese from China and Ukraine.

DATES: Applicable December 12, 2018.

FOR FURTHER INFORMATION CONTACT: Jonathan Cornfield, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3855.

SUPPLEMENTARY INFORMATION:

Background

On October 4, 2017, Commerce published the notice of initiation of the fourth sunset reviews of the *AD Orders,*[1]

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.310(d).

[12] *See* 19 CFR 351.212(b).

[13] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[1] *See Notice of Antidumping Duty Order: Silicomanganese from the People's Republic of*

pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] As a result of its reviews, Commerce determined that revocation of the *AD Orders* would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins of dumping likely to prevail should the orders be revoked.[3] On December 6, 2018, the ITC published its determination, pursuant to sections 751(c) and 752 of the Act, that revocation of the *AD Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[4]

Scope of the *AD Orders*

The merchandise covered by these orders is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon, and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. All compositions, forms and sizes of silicomanganese are included within the scope of these orders, including silicomanganese slag, fines and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.

Silicomanganese is currently classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040.[5] The *AD Orders* cover all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the *AD Orders* remains dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *AD Orders* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the *AD Orders.* U.S. Customs and Border Protection will continue to collect cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *AD Orders* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year review of this order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: December 7, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–26869 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–DS–P

China, 59 FR 66003 (December 22, 1994) and *Suspension Agreement on Silicomanganese from Ukraine; Termination of Suspension Agreement and Notice of Antidumping Duty Order,* 66 FR 43838 (August 21, 2001) (*AD Orders*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 82 FR 46221 (October 4, 2017).

[3] *See Silicomanganese from the People's Republic of China: Final Results of Expedited Fourth Sunset Reviews of the Antidumping Duty Orders,* 83 FR 5609 (February 8, 2018). *See also Silicomanganese from the People's Republic of China: Notice of Correction to the Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order,* 83 FR 17995 (April 25, 2018).

[4] *See Investigation No. 731–TA–672–673 (Fourth Review): Silicomanganese from China and Ukraine:* 83 FR 62900 (December 6, 2018), and USITC Publication 4845 (November 2018).

[5] 7202.99.5040 is the applicable HTSUS statistical reporting prior to July 2, 2003. Effective July 2, 2003, the subject merchandise that would originally have entered under 7202.99.5040 now enters under 7202.99.8040.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG598

Atlantic Highly Migratory Species (HMS); Atlantic HMS Tournament Registration and Reporting; Selection of All Atlantic HMS Tournaments for Reporting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: NMFS announces that all Atlantic HMS tournaments will be selected for reporting beginning on January 1, 2019. Previously, only a portion of Atlantic HMS tournaments were selected for reporting. An Atlantic HMS tournament is a tournament that awards points or prizes for catching Atlantic HMS (*i.e.,* swordfish, billfish, sharks and/or tunas). When selected for reporting, Atlantic HMS tournament operators are required to submit an HMS tournament catch summary report within seven days after tournament fishing has ended. NMFS uses the data to estimate the total annual catch of HMS and the impact of tournament operations in relation to other types of fishing activities.

DATES: Selection of all Atlantic HMS tournaments for reporting will begin January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Nicolas Alvarado at 727–209–5955 or 727–824–5398 (fax), or email *Nicolas.Alvarado@noaa.gov.*

SUPPLEMENTARY INFORMATION:

The U.S. Atlantic HMS fisheries are managed under the 2006 Consolidated HMS Fishery Management Plan and its amendments. Implementing regulations at 50 CFR part 635 are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.,* and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* ATCA authorizes the Secretary of Commerce to promulgate regulations, as may be necessary and appropriate, to implement recommendations of the International Commission for the Conservation of Atlantic Tunas.

An Atlantic HMS tournament is a tournament that awards points or prizes for catching Atlantic HMS (swordfish, billfish, sharks and/or tunas). Existing regulations at § 635.5(d) require Atlantic HMS tournament operators to register their tournaments with NMFS four weeks in advance of the tournament.

When registering, operators must provide contact information and the tournament's date(s), location(s), and target species. In addition, HMS tournament registration provides a method for tournament operators to request educational and regulatory outreach materials from NMFS.

In addition to requiring tournament operators to register, the regulations at § 635.5(d) also authorize NMFS to select HMS tournaments for reporting. Currently, all billfish and swordfish tournaments are selected for reporting. When selected for reporting, Atlantic HMS tournament operators are required to submit an HMS tournament catch summary report within seven days after tournament fishing has ended.

NMFS recently developed the online Atlantic Tournament Registration and Reporting (ATR) system that allows tournament operators to easily register their tournaments and report. For over a year, NMFS received positive feedback from tournament operators about the ease of use of the ATR system.

In this notice, NMFS announces that all Atlantic HMS tournaments, not just billfish and swordfish tournaments, will be selected for reporting beginning on January 1, 2019. The estimated burden to the public for all HMS tournaments to report has already been approved under the Paperwork Reduction Act (OMB 0648–0323). NMFS does not expect the burden on tournaments to increase as most of the catch data in the summary report is routinely collected in the course of regular tournament operations and all tournament operators may use the ATR system to report. NMFS uses the data collected in these reports to estimate the total annual catch of HMS and the potential impacts to tournament operations in relation to other types of fishing activities. For more information about Atlantic HMS tournament registration and reporting, please go to *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-highly-migratory-species-tournaments.*

Dated: December 7, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–26895 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG655

Endangered Species; File Nos. 21857, 22078, and 22324

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

ACTION: Notice; receipt of applications for permits.

SUMMARY: Notice is hereby given that three applicants have applied in due form for permits to take smalltooth sawfish (*Pristis pectinata*) for purposes of scientific research, with one also requesting to receive, import, and export parts of five foreign species of sawfish, including dwarf (*P. clavata*), narrow (*Anoxypristis cuspidata*), green (*P. zijsron*), largetooth (*P. Pristis),* and non-U.S. DPS smalltooth sawfish for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before January 11, 2019.

ADDRESSES: The permit requests and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting the applicable File No. from the list of available applications. These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on the pertinent application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on the application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Erin Markin at (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

File No. 21857: Tonya Wiley, Havenworth Coastal Conservation, 5120 Beacon Road, Palmetto, FL 34221, requests a 10-year permit document the occurrence, distribution, biology, movements, and habitat use of smalltooth sawfish found in United States waters. Sampling may occur anywhere within the species' range, but primarily in the Gulf of Mexico coastal areas of Florida bordering Sarasota, Manatee, Hillsborough, Pinellas, Hernando and Pasco counties. To capture sawfish, researchers would use bottom longline, drum line, gillnet, angling gear, seine net, and cast net. Captured smalltooth sawfish would be sexed, measured, weighed (if possible), marked with passive integrated transponder (PIT) tags, dart tags, and roto tags, photographed, ultrasounded, and tissue sampled (*i.e.,* blood, fin clip, muscle biopsy). A maximum of 50 neonate and juvenile life stages and 50 adult and sub-adult life stages would be taken annually with subsets of 25 of each life stage group fitted with internal or external telemetry tracking devices. Up to one sawfish from each life stage group may unintentionally die during research activities. Additionally, the applicant requests to collect, receive, necropsy, analyze, and archive up to 100 salvaged dead smalltooth sawfish specimens (whole or parts) that have been legally collected or archived elsewhere within the U.S.

File No. 22078: The NFMS Southeast Fisheries Science Center (Responsible Party: Theo Brainerd, Ph.D.), 75 Virginia Beach Drive Miami, FL 33149, requests a 10-year permit monitoring the biology, habitat use, and movements of smalltooth sawfish primarily within the Everglades National Park, the Ten Thousand Islands National Wildlife Refuge, and Florida Bay.

Sampling would be conducted year-round with gillnets, longlines, seines, cast nets, and angling gear. The applicant anticipates annually capturing and sampling a maximum of 150 sawfish annually (100 neonates and juveniles and 50 subadults and adults). Depending on the life stage and research objective, research activities would include: Measurement, weigh (when possible), ultrasound, photograph/video, genetic tissue fin clip, muscle biopsy, external dart tag, PIT tag, and blood draw. Additionally, subsets of each life stage group would receive internal or external telemetry devices

prior to release. Up to one sawfish from each life stage group may unintentionally die during research activities. Additionally, the applicant requests to collect, receive, necropsy, analyze, and archive up to 30 salvaged dead smalltooth sawfish specimens (whole or parts) that have been legally collected or archived elsewhere within the U.S.

File No. 22324: The University of Florida (Responsible Party: Gavin Naylor, Ph.D.), Florida Museum of Natural History, Dickinson Hall, Gainesville, FL 32611, requests a 10-year permit to study smalltooth sawfish movements, habitat use, temporal and spatial distribution, and population structure using tagging, telemetry, and population genetic methods. Sawfish would be collected year-round in the Florida Bay and the upper Florida Keys using gillnets, longlines, and angling gear. The applicant anticipates capturing each year up to 60 sawfish, including 20 neonates and juveniles and 40 sub-adult and adult life stages. Research activities would include measurement, weigh (when possible), ultrasound, photograph/video, genetic tissue fin clip, muscle biopsy, skin biopsy, external dart tag, PIT tag, and blood draw. Subsets of each life stage group would receive either internal or external telemetry tracking devices prior to release. Additionally, the applicant further requests to collect, receive, necropsy, analyze and archive up to 100 salvaged dead smalltooth sawfish specimens (whole or parts) that have been legally collected or archived elsewhere within the U.S. Other objectives include receiving, importing, and exporting tissue samples (or parts) from five other foreign species of sawfish for scientific and archival purposes, including dwarf, narrow, green, largetooth, and non-U.S. DPS smalltooth sawfish.

Dated: December 6, 2018.

Julia Marie Harrison,

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

[FR Doc. 2018–26838 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG656

Fishing Capacity Reduction Program for the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Non Pollock Groundfish Fishery

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

ACTION: Notice of fee rate adjustment.

SUMMARY: NMFS issues this notice to inform the public that there will be an increase of the fee rate required to repay the $35,000,000 reduction loan financing the non-pollock groundfish fishing capacity reduction program. Effective January 1, 2019, NMFS is increasing the Loan A fee rate to $0.017 per pound to ensure timely loan repayment. The fee rate for Loan B will remain unchanged at $0.001 per pound.

DATES: The non-pollock groundfish program fee rate increase will begin with landings on and after January 1, 2019. The first due date for fee payments with the increased rate will be February 15, 2019.

ADDRESSES: Send questions about this notice to Michael A. Sturtevant, Acting Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: Elaine Saiz, (301) 427–8752.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 312(b)–(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b) through (e)) generally authorizes fishing capacity reduction programs. In particular, section 312(d) authorizes industry fee systems for repaying reduction loans which finance reduction program costs. Subpart L of 50 CFR part 600 is the framework rule generally implementing section 312(b)–(e). Sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g) generally authorize reduction loans.

Enacted on December 8, 2004, section 219, Title II, of FY 2005 Appropriations Act, Public Law 104–447 (Act) authorizes a fishing capacity reduction program implementing capacity reduction plans submitted to NMFS by catcher processor subsectors of the Bering Sea and Aleutian Islands (''BSAI'') non-pollock groundfish fishery (''reduction fishery'') as set forth in the Act.

The longline catcher processor subsector (the ''Longline Subsector'') is among the catcher processor subsectors eligible to submit to NMFS a capacity reduction plan under the terms of the Act.

The longline subsector non-pollock groundfish reduction program's objective was to reduce the number of vessels and permits endorsed for longline subsector of the non-pollock groundfish fishery.

All post-reduction fish landings from the reduction fishery are subject to the longline subsector non-pollock groundfish program's fee.

NMFS proposed the implementing notice on August 11, 2006 (71 FR 46364), and published the final notice on September 29, 2006 (71 FR 57696).

NMFS allocated the $35,000,000 reduction loan (A Loan) to the reduction fishery and this loan is repayable by fees from the fishery.

On September 24, 2007, NMFS published in the **Federal Register** (72 FR 54219), the final rule to implement the industry fee system for repaying the non-pollock groundfish program's reduction loan and established October 24, 2007, as the effective date when fee collection and loan repayment began. The regulations implementing the program are located at § 600.1012 of 50 CFR part 600's subpart M.

NMFS published, in the **Federal Register** on November 2, 2009 (74 FR 56592), a notice to decrease the A Loan fee rate to $0.016 per pound effective January 1, 2010. On November 12, 2010, NMFS published a notice (75 FR 69401), to decrease the fee rate to $0.015 per pound, effective January 1, 2011. NMFS published a notice on November 30, 2011 (76 FR 74048) to decrease the fee rate to $0.0145 per pound effective January 1, 2012. NMFS published a notice on February 13, 2013 (78 FR 10136) to further decrease the fee rate once more to $0.0111 per pound effective January 1, 2013. NMFS published a notice on January 8, 2018 (83 FR 793) to increase the fee rate to $0.013 per pound effective January 1, 2018.

NMFS published a final rule to implement a second $2,700,000 reduction loan (B Loan) for this fishery in the **Federal Register** on September 24, 2012 (77 FR 58775). The loan was disbursed December 18, 2012 with fee collection of $0.001 per pound to begin January 1, 2013. This fee is in addition to the A Loan fee.

II. Purpose

The purpose of this notice is to adjust the fee rate for the reduction fishery in accordance with the framework rule's § 600.1013(b). Section 600.1013(b) directs NMFS to recalculate the fee rate that will be reasonably necessary to ensure reduction loan repayment within the specified 30 year term.

NMFS has determined for the reduction fishery that the current fee rate of $0.013 per pound is less than that needed to service the A Loan. Therefore, NMFS is increasing the Loan A fee rate to $0.017 per pound which NMFS has determined is sufficient to ensure timely loan repayment. The fee rate for Loan B will remain $0.001 per pound.

Subsector members may continue to use Pay.gov to disburse collected fee deposits at: *http://www.pay.gov/paygov/.*

Please visit the NMFS website for additional information at: *https://www.fisheries.noaa.gov/national/funding-and-financial-services/longline-catcher-processor-subsector-bering-sea-and-aleutian-islands-non-pollock.*

III. Notice

The new fee rate for the non-pollock Groundfish fishery will begin on January 1, 2019.

From and after this date, all subsector members paying fees on the non-pollock groundfish fishery shall begin paying non-pollock groundfish fishery program fees at the revised rate.

Fee collection and submission shall follow previously established methods in § 600.1013 of the framework rule and in the final fee rule published in the **Federal Register** on September 24, 2007 (72 FR 54219).

Authority: The authority for this action is Public Law 108–447, 16 U.S.C. 1861a (b–e), and 50 CFR 600.1000 *et seq.*

Dated: December 3, 2018.

Brian Pawlak,

CFO/CAO Director, Office of Management and Budget, National Marine Fisheries Service.

[FR Doc. 2018–26884 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG613

Fisheries of the Exclusive Economic Zone Off Alaska; North Pacific Halibut and Sablefish Individual Fishing Quota Cost Recovery Programs

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

ACTION: Notice of standard prices and fee percentage.

SUMMARY: NMFS publishes the individual fishing quota (IFQ) standard prices and fee percentage for cost recovery for the IFQ Program for the halibut and sablefish fisheries of the North Pacific (IFQ Program). The fee percentage for 2018 is 2.8 percent. This action is intended to provide holders of halibut and sablefish IFQ permits with the 2018 standard prices and fee percentage to calculate the required payment for IFQ cost recovery fees due by January 31, 2019.

DATES: The standard prices and fee percentages are valid on December 12, 2018.

FOR FURTHER INFORMATION CONTACT: Carl Greene, Fee Coordinator, 907–586–7105.

SUPPLEMENTARY INFORMATION:

Background

NMFS Alaska Region administers the IFQ Program in the North Pacific. The IFQ Program is a limited access system authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Northern Pacific Halibut Act of 1982. Fishing under the IFQ Program began in March 1995. Regulations implementing the IFQ Program are set forth at 50 CFR part 679.

In 1996, the Magnuson-Stevens Act was amended to, among other purposes, require the Secretary of Commerce to ''collect a fee to recover the actual costs directly related to the management and enforcement of any . . . individual quota program.'' This requirement was further amended in 2006 to include collection of the actual costs of data collection, and to replace the reference to ''individual quota program'' with a more general reference to ''limited access privilege program'' at section 304(d)(2)(A). Section 304(d)(2) of the Magnuson-Stevens Act also specifies an upper limit on these fees, when the fees must be collected, and where the fees must be deposited.

On March 20, 2000, NMFS published regulations in § 679.45 implementing cost recovery for the IFQ Program (65 FR 14919). Under the regulations, an IFQ permit holder must pay a cost recovery fee for every pound of IFQ halibut and IFQ sablefish that is landed on his or her IFQ permit(s). The IFQ permit holder is responsible for self-collecting the fee for all IFQ halibut and IFQ sablefish landings on his or her permit(s). The IFQ permit holder is also responsible for submitting IFQ fee payment(s) to NMFS on or before the due date of January 31 of the year following the year in which the IFQ landings were made. The total dollar amount of the fee due is determined by multiplying the NMFS published fee percentage by the ex-vessel value of all IFQ landings made on the permit(s) during the IFQ fishing year. As required by § 679.45(d)(1) and (d)(3)(i), NMFS publishes this notice of the fee percentage for the halibut and sablefish IFQ fisheries in the **Federal Register** during or before the last quarter of each year.

Standard Prices

The fee is based on the sum of all payments made to fishermen for the sale of the fish during the year. This includes any retro-payments (*e.g.,* bonuses, delayed partial payments, post-season payments) made to the IFQ permit holder for previously landed IFQ halibut or sablefish.

For purposes of calculating IFQ cost recovery fees, NMFS distinguishes between two types of ex-vessel value: Actual and standard. Actual ex-vessel value is the amount of all compensation, monetary or non-monetary, that an IFQ permit holder received as payment for his or her IFQ fish sold. Standard ex-vessel value is the default value used to calculate the fee. IFQ permit holders have the option of using actual ex-vessel value if they can satisfactorily document it; otherwise, the standard ex-vessel value is used.

Section 679.45(b)(3)(iii) requires the Regional Administrator to publish IFQ standard prices during the last quarter of each calendar year. These standard prices are used, along with estimates of IFQ halibut and IFQ sablefish landings, to calculate standard ex-vessel values. The standard prices are described in U.S. dollars per IFQ equivalent pound for IFQ halibut and IFQ sablefish landings made during the year. According to § 679.2, IFQ equivalent pound(s) means the weight amount, recorded in pounds, and calculated as round weight for sablefish and headed and gutted weight for halibut, for an IFQ landing. The weight of halibut in

pounds landed as guided angler fish is converted to IFQ equivalent pound(s) as specified in § 300.65(c) of this title. NMFS calculates the standard prices to closely reflect the variations in the actual ex-vessel values of IFQ halibut and IFQ sablefish landings by month and port or port-group. The standard prices for IFQ halibut and IFQ sablefish are listed in Table 1 that follows the next section. Data from ports are combined as necessary to protect confidentiality.

Fee Percentage

NMFS calculates the fee percentage each year according to the factors and methods described at § 679.45(d)(2). NMFS determines the fee percentage that applies to landings made in the previous year by dividing the total costs directly related to the management, data collection, and enforcement of the IFQ Program (management costs) during the previous year by the total standard ex-vessel value of IFQ halibut and IFQ sablefish landings made during the previous year (fishery value). NMFS captures the actual management costs associated with certain management, data collection, and enforcement functions through an established accounting system that allows staff to track labor, travel, contracts, rent, and procurement. NMFS calculates the fishery value as described under the section, Standard Prices.

Using the fee percentage formula described above, the estimated percentage of management costs to fishery value for the 2018 calendar year is 2.8 percent of the standard ex-vessel value, which is below the 3.0 maximum fee percentage allowed under section 304(d)(2)(B) of the Magnuson-Stevens Act. An IFQ permit holder is to use the fee percentage of 2.8 percent to calculate his or her fee for IFQ equivalent pound(s) landed during the 2018 halibut and sablefish IFQ fishing season. An IFQ permit holder is responsible for submitting the 2018 IFQ fee payment to NMFS on or before January 31, 2019. Payment must be made in accordance with the payment methods set forth in § 679.45(a)(4). NMFS no longer accepts credit card information by phone or in-person for fee payments. NMFS has determined that the practice of accepting credit card information by phone or in-person no longer meets agency standards for protection of personal financial information (81 FR 23645, April 22, 2016).

The 2018 fee percentage of 2.8 percent is higher than the 2017 fee percentage of 2.2 percent (82 FR 60379, December 20, 2017). Although management costs for the IFQ Program fisheries dropped 1.9 percent from 2017 to 2018, the rise in fee percentage can be attributed to an estimated 22.4 percent decrease in the value of the fisheries over the same period.

TABLE 1—REGISTERED BUYER STANDARD EX-VESSEL PRICES BY LANDING LOCATION FOR THE 2018 IFQ SEASON

Registered Buyer Standard Ex-Vessel Prices by Landing Location for 2018 IFQ Season [1]			
Landing location	Period ending	Halibut standard ex-vessel price	Sablefish standard ex-vessel price
CORDOVA	March 31		
	April 30		
	May 31		
	June 30		
	July 31	6.37	
	August 31	6.02	4.17
	September 30	5.74	
	October 31	5.74	
	November 30	5.74	
HOMER	March 31	4.72	
	April 30	4.89	2.41
	May 31	4.87	3.04
	June 30	5.68	
	July 31	6.18	
	August 31	6.44	3.59
	September 30	5.65	3.81
	October 31	5.65	3.81
	November 30	5.65	3.81
KETCHIKAN	March 31		
	April 30	5.24	
	May 31	5.18	
	June 30	5.23	
	July 31	5.70	
	August 31	5.90	
	September 30	5.86	
	October 31	5.86	
	November 30	5.86	
KODIAK	March 31		
	April 30	4.73	2.54
	May 31	4.65	3.21
	June 30	5.02	3.56
	July 31	5.59	3.28
	August 31	5.76	3.86
	September 30	5.58	3.81
	October 31	5.58	3.81
	November 30	5.58	3.81
PETERSBURG	March 31		
	April 30		
	May 31		

TABLE 1—REGISTERED BUYER STANDARD EX-VESSEL PRICES BY LANDING LOCATION FOR THE 2018 IFQ SEASON—Continued

Registered Buyer Standard Ex-Vessel Prices by Landing Location for 2018 IFQ Season [1]			
Landing location	Period ending	Halibut standard ex-vessel price	Sablefish standard ex-vessel price
	June 30		
	July 31	5.89	
	August 31	5.99	
	September 30		
	October 31		
	November 30		
SEWARD	March 31		
	April 30		
	May 31	5.27	3.75
	June 30	5.17	3.35
	July 31		
	August 31		
	September 30		
	October 31		
	November 30		
SITKA	March 31	5.18	
	April 30	5.15	3.38
	May 31		3.92
	June 30	4.94	4.09
	July 31		
	August 31		
	September 30		
	October 31		
	November 30		
PORT GROUP BERING SEA [2]	March 31		
	April 30	4.75	2.45
	May 31	4.53	2.04
	June 30	4.60	2.88
	July 31	4.53	2.99
	August 31	4.75	3.57
	September 30	4.95	3.39
	October 31	4.95	3.39
	November 30	4.95	3.39
PORT GROUP CENTRAL GULF [3]	March 31	5.19	3.01
	April 30	5.08	3.17
	May 31	4.89	3.36
	June 30	5.40	3.55
	July 31	6.12	3.20
	August 31	6.47	3.74
	September 30	5.58	3.79
	October 31	5.58	3.79
	November 30	5.58	3.79
PORT GROUP SOUTHEAST [4]	March 31	5.19	3.73
	April 30	5.18	3.46
	May 31	5.10	3.80
	June 30	5.21	3.99
	July 31	5.84	4.27
	August 31	6.00	4.38
	September 30	5.88	4.53
	October 31	5.88	4.53
	November 30	5.88	4.53
ALL-ALASKA [5]	March 31	5.18	3.67
	April 30	5.12	3.26
	May 31	4.94	3.37
	June 30	5.26	3.71
	July 31	5.76	3.53
	August 31	5.82	3.86
	September 30	5.51	4.00
	October 31	5.51	4.00
	November 30	5.51	4.00
ALL [5]	March 31	5.18	3.67
	April 30	5.12	3.26
	May 31	4.94	3.37
	June 30	5.26	3.71
	July 31	5.76	3.53
	August 31	5.82	3.86

TABLE 1—REGISTERED BUYER STANDARD EX-VESSEL PRICES BY LANDING LOCATION FOR THE 2018 IFQ SEASON—Continued

Registered Buyer Standard Ex-Vessel Prices by Landing Location for 2018 IFQ Season [1]			
Landing location	Period ending	Halibut standard ex-vessel price	Sablefish standard ex-vessel price
	September 30	5.51	4.00
	October 31	5.51	4.00
	November 30	5.51	4.00

[1] **Note:** In many instances, prices are not shown in order to comply with confidentiality guidelines when there are fewer than three processors operating in a location during a month.

[2] *Landing Locations Within Port Group—Bering Sea:* Adak, Akutan, Akutan Bay, Atka, Bristol Bay, Chefornak, Dillingham, Captains Bay, Dutch Harbor, Egegik, Ikatan Bay, Hooper Bay, King Cove, King Salmon, Kipnuk, Mekoryuk, Naknek, Nome, Quinhagak, Savoonga, St. George, St. Lawrence, St. Paul, Togiak, Toksook Bay, Tununak, Beaver Inlet, Ugadaga Bay, Unalaska.

[3] *Landing Locations Within Port Group—Central Gulf of Alaska:* Anchor Point, Anchorage, Alitak, Chignik, Cordova, Eagle River, False Pass, West Anchor Cove, Girdwood, Chinitna Bay, Halibut Cove, Homer, Kasilof, Kenai, Kenai River, Alitak, Kodiak, Port Bailey, Nikiski, Ninilchik, Old Harbor, Palmer, Sand Point, Seldovia, Resurrection Bay, Seward, Valdez, Whittier.

[4] *Landing Locations Within Port Group—Southeast Alaska:* Angoon, Baranof Warm Springs, Craig, Edna Bay, Elfin Cove, Excursion Inlet, Gustavus, Haines, Hollis, Hoonah, Hyder, Auke Bay, Douglas, Tee Harbor, Juneau, Kake, Ketchikan, Klawock, Metlakatla, Pelican, Petersburg, Portage Bay, Port Alexander, Port Graham, Port Protection, Point Baker, Sitka, Skagway, Tenakee Springs, Thorne Bay, Wrangell, Yakutat.

[5] *Landing Locations Within Port Group—All:* For Alaska: All landing locations included in 2, 3, and 4. For California: Eureka, Fort Bragg, other California. For Oregon: Astoria, Aurora, Lincoln City, Newport, Warrenton, other Oregon. For Washington: Anacortes, Bellevue, Bellingham, Nagai Island, Edmonds, Everett, Granite Falls, Ilwaco, La Conner, Port Angeles, Port Orchard, Port Townsend, Rainier, Fox Island, Mercer Island, Seattle, Standwood, other Washington. For Canada: Port Hardy, Port Edward, Prince Rupert, Vancouver, Haines Junction, other Canada.

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

Dated: December 7, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–26875 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG605

Schedules for Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops will be held in January, February, and March of 2019. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted during 2019 and will be announced in a future notice.

DATES: The Atlantic Shark Identification Workshops will be held on January 10, February 7, and March 28, 2019. The Safe Handling, Release, and Identification Workshops will be held on January 10, January 15, February 1, February 7, March 1, and March 13, 2019. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Boutte, LA; Virginia Beach, VA; and Fort Pierce, FL. The Safe Handling, Release, and Identification Workshops will be held in Portsmouth, NH; Key Largo, FL; Gulfport, MS; Charleston, SC; Manahawkin, NJ; and Houston, TX. See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

FOR FURTHER INFORMATION CONTACT: Rick Pearson by phone: (727) 824–5399.

SUPPLEMENTARY INFORMATION: The workshop schedules, registration information, and a list of frequently asked questions regarding the Atlantic Shark ID and Safe Handling, Release, and ID workshops are posted on the internet at: *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops* and *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops.*

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057; January 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Thus, certificates that were initially issued in 2016 will be expiring in 2019. Approximately 151 free Atlantic Shark Identification Workshops have been conducted since January 2008.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit which first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has

been submitted with the permit renewal application. Additionally, trucks or other conveyances that are extensions of a dealer's place of business must possess a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate.

Workshop Dates, Times, and Locations

1. January 10, 2019, 12 p.m.–4 p.m., La Quinta Inn, 14221 Highway 90, Boutte, LA 70039.
2. February 7, 2019, 12 p.m.–4 p.m., Hampton Inn, 1011 Atlantic Avenue, Virginia Beach, VA 23451.
3. March 28, 2019, 12 p.m.–4 p.m., Hampton Inn, 1985 Reynolds Drive, Fort Pierce, FL 34945.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at *ericssharkguide@yahoo.com* or at (386) 852–8588. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited-access and swordfish limited-access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; January 2, 2006). These certificate(s) are valid for 3 years. Certificates issued in 2016 will be expiring in 2019. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 292 free Safe Handling, Release, and Identification Workshops have been conducted since 2006.

In addition to certifying vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits that uses longline or gillnet gear.

Workshop Dates, Times, and Locations

1. January 10, 2019, 9 a.m.–5 p.m., Holiday Inn, 300 Woodbury Avenue, Portsmouth, New Hampshire 03801.
2. January 15, 2019, 9 a.m.–5 p.m., Holiday Inn, 99701 Overseas Highway, Key Largo, FL 33037.
3. February 1, 2019, 9 a.m.–5 p.m., Gulf Coast Event Center, 9475 Highway 49, Gulfport, MS 39503.
4. February 7, 2019, 9 a.m.–5 p.m., Hampton Inn, 678 Citadel Haven Drive, Charleston, SC 29414.
5. March 1, 2019, 9 a.m.–5 p.m., Holiday Inn, 151 Route 72 West, Manahawkin, NJ 08050.
6. March 13, 2019, 9 a.m.–5 p.m., Holiday Inn Express, 9300 South Main Street, Houston, TX 77025.

Registration

To register for a scheduled Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification.
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification.
- Vessel operators must bring proof of identification.

Workshop Objectives

The Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, and smalltooth sawfish, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent additional regulations on these fisheries in the future.

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

Dated: December 7, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–26896 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Madrid Protocol

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an existing information collection: 0651–0051 (Madrid Protocol).

DATES: Written comments must be submitted on or before February 11, 2019.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0051 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Catherine Cain, Attorney Advisory, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–8946; or by email at *Catherine.Cain@uspto.gov* with ''0651–0051 comment'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.,* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register the marks with the United States Patent and Trademark Office (USPTO).

The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (''Madrid Protocol'') is an international treaty that allows a trademark owner to seek registration in any of the participating countries by filing a single international application. The International Bureau (IB) of the World Intellectual Property Organization (WIPO) in Geneva, Switzerland, administers the international registration system. The Madrid Protocol Implementation Act of 2002 amended the Trademark Act to provide that: (1) The owner of a U.S. application or registration may seek protection of its mark in any of the participating countries by submitting a single international application to the IB through the USPTO, and (2) the holder of an international registration may request an extension of protection of the international registration to the United States. The Madrid Protocol became effective in the United States on November 2, 2003, and is implemented under 15 U.S.C. 1141 *et seq.,* and 37 CFR part 2 and part 7.

An international application submitted through the USPTO must be based on an active U.S. application or registration and must be filed by the owner of the application or registration. The USPTO reviews the international application to certify that it corresponds to the data contained in the existing U.S. application or registration before forwarding the international application to the IB. The IB then reviews the international application to determine whether the Madrid filing requirements have been met and the required fees have been paid. If the international application is unacceptable, the IB will send a notice of irregularity to the USPTO and the applicant. The applicant must respond to the irregularities to avoid abandonment, unless a response from the USPTO is required. After any irregularities are corrected and the application is accepted, the IB issues an international registration number, publishes the registration in the WIPO Gazette of International Marks, and sends the certificate to the holder.

When the international registration is issued, the IB notifies each country designated in the application of the request for extension of protection. Each designated country then examines the request under its own laws. Once an international registration exists, the holder may also file subsequent designations to request an extension of protection to additional countries or request extension of goods/services not already extended to previously designated countries.

Under Section 71 of the Trademark Act, 15 U.S.C. 1141(k), a registered extension of protection to the United States will be cancelled unless the holder of the international registration periodically files affidavits of continued use in commerce or excusable nonuse. The first affidavit must be filed on or between the fifth- or sixth-year anniversaries of the date on which the USPTO registers an extension of protection.

This collection includes the information necessary for the USPTO to process applications for international registration and related requests under the Madrid Protocol. The USPTO provides electronic forms for filing the items in this information collection online (except for the Request to Record an Assignment or Restriction of a Holder's Right to Dispose of an International Registration) using the Trademark Electronic Application System (TEAS), which is available through the USPTO website.

Applicants may also submit the items in this collection on paper or by using the forms provided by the IB, which are available on the WIPO website. The IB requires Applications for International Registration and Applications for Subsequent Designation that are filed on paper to be submitted on the official IB forms.

II. Methods of Collection

Electronically, if applicants submit the information using the TEAS forms. By mail or hand delivery, if applicants choose to submit the information in paper form.

III. Data

OMB Number: 0651–0051.

IC Instruments: PTO–1663, PTO–1683, PTO–2131, PTO–2132, PTO–2133, TEAS Global Forms.

Type of Review: Extension of an existing information collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 14,691 responses per year. Of this total, the USPTO expects that 14,682 response will be submitted electronically via the TEAS system and 9 will be submitted on paper.

Estimated Time per Response: The USPTO estimates that it will take the public approximately between 20 minutes (0.33 hours) to seventy-five minutes (1.25 hours) to complete the information in this collection, including the time to gather the necessary information, prepare the forms or documents, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 4,878.97 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: $2,136,988.86. The USPTO expects that an attorney will complete the instruments

associated with this information collection. The professional hourly rate for an intellectual property attorney in private firms in $438. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is $2,136,988.86 per year.

#	Item	Estimated time for responses (a)	Estimated annual responses (b)	Estimated annual burden hours (c)	Rate (d) (a) × (b)	Estimated annual respondent cost (e) (c) × (d)
1	Application for International Registration (TEAS).	0.33 (20 minutes)	8,540	2,818.20	$438.00	$1,234,371.60
1	Application for International Registration (paper).	0.58 (35 minutes)	1	0.58	438.00	254.04
2	Application for Subsequent Designation (TEAS).	0.33 (20 minutes)	930	306.90	438.00	134,422.20
2	Application for Subsequent Designation (paper).	0.58 (35 minutes)	1	0.58	438.00	254.04
3	Response to Notice of Irregularity (TEAS).	0.33 (20 minutes)	315	103.95	438.00	45,530.10
3	Response to Notice of Irregularity (paper).	0.55 (33 minutes)	1	0.55	438.00	240.90
4	Replacement Request (TEAS Global)	0.50 (30 minutes)	1	0.50	438.00	219.00
4	Replacement Request (paper)	0.75 (45 minutes)	1	0.75	438.00	328.50
5	Request to Record an Assignment or Restriction of a Holder's Right to Dispose of an International Registration (TEAS Global).	0.33 (20 minutes)	3	0.99	438.00	433.62
5	Request to Record an Assignment or Restriction of a Holder's Right to Dispose of an International Registration (paper).	0.50 (30 minutes)	1	0.50	438.00	219.00
6	Transformation Request (TEAS RF Global).	0.33 (20 minutes)	1	0.33	438.00	144.54
6	Transformation Request (paper)	0.55 (33 minutes)	1	0.55	438.00	240.90
7	Petition to Director to Review Denial of Certification of International Application (TEAS Global).	1 (60 minutes)	42	42.00	438.00	18,396.00
7	Petition to Director to Review Denial of Certification of International Application (paper).	1.25 (75 minutes)	1	1.25	438.00	547.50
8	Declaration of Continued Use/Excused Nonuse of Mark in Commerce Under Section 71 (TEAS).	0.33 (20 minutes)	3,250	1,072.50	438.00	469,755.00
8	Declaration of Continued Use/Excused Nonuse of Mark in Commerce Under Section 71 (paper).	0.42 (25 minutes)	1	0.42	438.00	183.96
9	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (TEAS).	0.33 (20 minutes)	1,600	528.00	438.00	231,264.00
9	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (paper).	0.42 (25 minutes)	1	0.42	438.00	183.96
Totals			14,691	4,878.97		2,136,988.86

Estimated Total Annual (Non-hour) Respondent Cost Burden:
$12,182,254.50. The collection has annual (non-hour) costs in the forms of postage costs and filing fees.

Postage Costs

Customers may incur postage costs when submitting some of the items covered by this collection to the USPTO by mail. The USPTO expects that approximately 98% of the responses in this collection will be submitted electronically. Of the remaining 1 percent, the vast majority will be submitted by mail, for a total of 9 mailed submissions. The average first-class USPS postage cost for a mailed submission will be $0.50. Therefore, the USPTO estimates that the postage costs for the mailed submissions in this collection will total $4.50.

Filing Fees

The USPTO charges fees for processing international applications and related requests under the Madrid Protocol, as set forth in 37 CFR 2.6 and 37 CFR 7.6. Most of these fees are charged per class of goods or services. Therefore, the total fees can vary depending on the number of classes. Based on the minimum fee of one class per relevant document, the USPTO estimates that the total filing fees associated with this collection will be approximately $12,182,250 per year, as calculated in the table below.

#	Item	Estimated annual responses (a)	Fee amount (b)	Estimated annual filing costs (c) (a) × (b)
1	Application for International Registration (for certifying an international application based on a single basic application or registration, per international class) (TEAS).	7,313	$100.00	$731,300.00
1	Application for International Registration (for certifying an international application based on a single basic application or registration, per international class) (paper).	1	200.00	200.00
1	Application for International Registration (for certifying an international application based on more than one basic application or registration, per international class) (TEAS).	1,227	150.00	184,050.00
1	Application for International Registration (for certifying an international application based on more than one basic application or registration, per international class) (paper).	1	250.00	250.00
1	Request for Extension of Protection of International Registration to the United States—Filed at WIPO.	25,600	400.00	10,240,000.00
2	Transmitting a Subsequent Designation under Section 7.21 (TEAS)	930	100.00	93,000.00
2	Transmitting a Subsequent Designation under Section 7.21 (paper)	1	200.00	200.00
4	Notice of Replacement under Section 7.28 (per international class) (TEAS)	1	100.00	100.00
4	Notice of Replacement under Section 7.28 (per international class) (paper)	1	200.00	200.00
5	Request to Record an Assignment or Restriction, or Release of a Restriction, under Sections 7.23 and 7.24 (TEAS) (paper).	3	100.00	300.00
5	Request to Record an Assignment or Restriction, or Release of a Restriction, under Sections 7.23 and 7.24 (paper).	1	200.00	200.00
6	Transformation Request (per international class (TEAS RF Global)	1	275.00	275.00
6	Transformation Request (per international class) (paper)	1	600.00	600.00
7	Petition to Director to Review Denial of Certification of International Application (TEAS).	42	100.00	4,200.00
7	Petition to Director to Review Denial of Certification of International Application (paper).	1	200.00	200.00
8	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (per international class) (TEAS).	3,250	125.00	406,250.00
8	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (per international class) (paper).	1	225.00	100.00
8	Surcharge for Filing Affidavit Under Section 71 of the Act During the Grace Period, per international class (TEAS).	1	100.00	100.00
8	Surcharge for Filing Affidavit Under Section 71 of the Act During the Grace Period, per international class (paper).	1	200.00	200.00
9	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (per international class) (TEAS).	1,600	325.00	520,000.00
9	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (per international class) (paper).	1	525.00	525.00
Totals		39,978		12,182,250.00

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs ($4.50) and filing fees ($12,182,250), is $12,182,254.50 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;

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

(d) Ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

Marcie Lovett,

Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.

[FR Doc. 2018–26847 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Practitioner Conduct and Discipline

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on this proposed extension of an existing information collection.

DATES: Written comments must be submitted on or before February 11, 2019.

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0017 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4097; or by email at *Dahlia.George@uspto.gov* with ''0651–0017 comment'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The Director of the United States Patent and Trademark Office has the authority to establish regulations governing the conduct and discipline of agents, attorneys, or other persons representing applicants and other parties before the USPTO (35 U.S.C. 2 and 32–33). The USPTO Rules of Professional Conduct at 37 CFR 11.101–11.804 describe how agents, attorneys, or other practitioners representing applicants and other parties before the USPTO should conduct themselves professionally and outline their responsibilities for recordkeeping and reporting violations or complaints of misconduct to the USPTO, while the Investigations and Disciplinary Proceedings Rules (37 CFR 11.19–11.60) dictate how the USPTO can discipline agents, attorneys, or other persons representing applicants and other parties before the USPTO. These sets of rules are collectively referred to here as ''Part 11.''

This collection covers the various reporting and recordkeeping requirements set forth in Part 11 for all agents, attorneys, or other practitioners representing applicants and other parties before the USPTO. The Rules require a practitioner to maintain complete records of all funds, securities, and other properties of clients coming into his or her possession, and to render appropriate accounts to the client regarding the funds, securities, and other properties of clients coming into the practitioner's possession, collectively known as ''client property.'' These recordkeeping requirements are necessary to maintain the integrity of client property. Each State Bar requires its attorneys to perform similar recordkeeping and these Rules require patent agents to maintain similar recordkeeping for clients.

Part 11 also requires a practitioner to report knowledge of certain violations of the USPTO Rules of Professional Conduct to the USPTO. If a complaint or grievance is found to have merit, the USPTO will investigate and possibly prosecute such violations and provide the practitioner with the opportunity to respond to the complaint. The Director of the Office of Enrollment and Discipline (OED) may, after notice and opportunity for a hearing, suspend, exclude, or disqualify any practitioner from further practice before the USPTO based on non-compliance with the USPTO Rules of Professional Conduct. Practitioners who have been excluded or suspended from practice before the USPTO, practitioners transferred to disability inactive status, and practitioners who have resigned must keep and maintain records of their steps to comply with the suspension or exclusion order, transfer to disability inactive status, or resignation should they seek reinstatement. These records may serve as the practitioner's proof of compliance with the order, transfer, resignation, and Rules.

The information collected, *i.e.,* reports of alleged violations of the USPTO Rules of Professional Conduct, is used by the Director of OED to conduct investigations and prosecute violations, as appropriate.

II. Method of Collection

Electronically via email; by mail or hand delivery in paper form.

III. Data

OMB Number: 0651–0017.

IC Instruments: The individual instruments in this collection, as well as their associated forms, are listed in the table below.

Type of Review: Revision of an existing information collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 11,065 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public between 1 hour and 20 hours to complete a single item in this collection, depending on the instrument used, including the time to gather the necessary information, prepare the appropriate form or petition, and submit the completed request to the USPTO. The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this collection are shown in the table below.

Estimated Total Annual Respondent Burden Hours: 12,225 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: $3,606,500.00. The USPTO expects that agents will complete the Recordkeeping Maintenance & Disclosure item at an hourly wage rate of $284 as published in the 2017 AIPLA *Report of the Economic Survey* and that practitioners will complete the Recordkeeping Maintenance Under Suspension or Exclusion from the USPTO item at an hourly rate of $438 as published in the 2017 AIPLA *Report of the Economic Survey.* The USPTO further expects that a combination of individuals such as trademark applicants and applicants for patents as well as practitioners, including agents, will complete the Complaint/Violation Reporting, including grievances. USPTO estimates that this group has a blended hourly rate of $303; this blended rate is based on data from both the 2017 AIPLA *Report of the Economic Survey* and the 2017 Bureau of Labor Statistics (BLS) National Occupation Employment and Wage Estimates. The BLS wage estimate for scientists and engineers (occupation code 19–2099) is used for inventors and applicants. The blended rate is comprised 50 percent by the practitioner hourly rate of $438, 25 percent by the agent hourly rate of $284, and 25 percent by the rate for scientists and engineers of $51.53. Using these hourly rates, the USPTO estimates $3,606,500 per year for the total hourly costs associated with respondents.

IC No.	Information collection instrument	Estimated time for response (hours)	Estimated annual responses	Estimated annual burden hours	Rate ($/hr)	Respondent cost
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)
1	Recordkeeping Maintenance & Disclosure (includes advertisements, disclosure requirements relating to soliciting professional employment, notifications by non-attorney practitioner of inadvertently sent documents, and financial books and records such as trust accounts, fiduciary accounts, and operating accounts).	1	10,825	10,825	$284	$3,074,300
2	Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion from the USPTO.	20	40	800	438	350,400
3	Complaint/Violation Reporting	3	200	600	303	181,800
Total			11,065	12,225		3,606,500

Estimated Total Annual (Non-hour) Respondent Cost Burden: $1,244.35. There are no capital start-up or maintenance costs as well as no filing fees associated with this information collection. Any recordkeeping costs have been factored into the estimated hourly cost burden. There are, however, postage costs associated with this collection.

Customers may incur postage costs when submitting the items covered by this collection to the USPTO by mail. The USPTO expects that 20 percent of the Recordkeeping Maintenance & Disclosure item; 0 percent of the Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion item; and 25 percent of the Complaint/Violation Reporting item will be submitted electronically. The USPTO further expects that of the non-electronic submissions for this collection, 1 percent of each item's total responses will be submitted by hand delivery and the rest will be submitted by mail, for a total of 187 mailed submissions.

The average first-class USPS postage cost for a one-pound mailed submission in a flat-rate envelope and a three-pound mailed submission in a small flat-rate box are $6.55 and $7.05, respectively. 25 percent of the mailed Recordkeeping Maintenance & Disclosure items are expected to require the more expensive flat-rate box mailing option, while all other items are expected to be mailed using the flat-rate envelope. Using these numbers, the USPTO estimates that the postage costs for the mailed submissions in this collection will total $1,244.35.

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs, is $1,244.35 per year.

IV. Request for Comments

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, 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, *e.g.,* permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Marcie Lovett,

Director, Records and Information Governance Division, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2018–26846 Filed 12–11–18; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Management and Budget (''OMB'') for review and comment. The ICR describes the nature of the information collection and its expected costs and burdens.

DATES: Comments must be submitted on or before January 11, 2019.

ADDRESSES: Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (''OIRA'') in OMB within 30 days of publication of this notice by either of the methods specified below. Please identify the comments by ''OMB Control Numbers 3038–0023 and 3038–0072.''

- *By email addressed to: OIRAsubmissions@omb.eop.gov;* or
- *By mail addressed to:* Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (''Commission'') by any of the following methods. The copies should refer to

''OMB Control Numbers 3038–0023 and 3038–0072.''

• *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581;

• By Hand Delivery/Courier to the same address; or

• Through the Commission's website at *http://comments.cftc.gov.* Please follow the instructions for submitting comments through the website.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

A copy of the supporting statements for the collections of information discussed herein may be obtained by visiting *http://RegInfo.gov.*

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings, Special Counsel, (202) 418–5445, *ccummings@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581, and refer to OMB Control Numbers 3038–0023 and 3038–0072.

SUPPLEMENTARY INFORMATION:

Titles: Registration Under the Commodity Exchange Act (OMB control number 3038–0023); Registration of Swap Dealers and Major Swap Participants (OMB control number 3038–0072). This is a request for extension and revision of these currently approved information collections.

Abstract: In *Adoption of Revised Registration Form 8–R,* 82 FR 19665 (Apr. 28, 2017), the Commission published a revised version of Commission Form 8–R. The 8–R is the application form that individuals must use to register with the Commission as an associated person, floor broker, floor trader, floor trader order enterer, or to be listed as a principal of a registrant. Separately, in *Agency Information Collection Activities: Proposed Collection Revision, Comment Request: Adoption of Revised Registration Form 8–R and Cancellation of Form 3–R,* 82 FR 19663 (Apr. 28, 2017) (''60-Day Notice''), the Commission addressed the PRA implications of the revisions to Form 8–R. The 60-Day Notice also addressed the PRA implications associated with formally cancelling Commission Form 3–R, a separate registration form that became obsolete after its function became available online and the Commission stopped requiring its use. As indicated above, Form 8–R is covered by two OMB control numbers. OMB control number 3038–0023 applies to Form 8–R in connection with registering as a floor broker or floor trader, or registering as an associated person of, or being listed as a principal of, a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, floor trader firm or leverage transaction merchant.[2] OMB control number 3038–0072 applies to Form 8–R in connection with applying to be listed as a principal of a swap dealer or major swap participant.[3] In connection with the revision of Form 8–R, the Commission is amending collections 3038–0023 and 3038–0072 to reflect a modest increase in the information collection burdens associated with the new version of Form 8–R. The Commission did not amend Form 7–R or its current burden, which is included as part of the overall burden estimates of collections 3038–0023 and 3038–0072.

I. Commission Form 8–R

The Commission made three substantive changes to the Form 8–R that increased the existing information collection burden under the PRA: Two new questions were added to the ''Fingerprint Card Information'' section; a new question was added to the section titled ''Disciplinary Information—Regulatory Disclosures;'' and, lastly, one of the questions in the section titled ''Disciplinary Information—Financial Disclosures'' was expanded. Additionally, the revised Form 8–R also contains several other substantive modifications, as well as numerous grammatical, organizational and formatting changes.[4] These other changes, whether considered individually or in aggregate, do not alter the information collection burdens for Form 8–R. All of the changes to Commission Form 8–R that are summarized above are discussed in detail in the 60-Day Notice.

The collections of information related to Form 8–R were previously approved by OMB in accordance with the PRA under OMB control numbers 3038–0023 and 3038–0072. In the 60-Day Notice, the Commission addressed the PRA implications of the changes to Commission Form 8–R. Specifically, the Commission estimated that the three substantive changes to Form 8–R discussed above together add 0.1 hours to the existing information collection burden associated with Form 8–R, currently 0.8 hours, resulting in a new collection burden of 0.9 hours for Form 8–R, subject to the additional change to the collection burden discussed below. The information requested in Form 8–R is necessary to assess the applicant's fitness to engage in business as a derivatives professional, subject to regulation and oversight by the Commission. 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. As noted below, the Commission requested comments on the changes to Form 8–R.

[1] 17 CFR 145.9.

[2] OMB control number 3038–0023 also covers Commission Forms 7–R, 7–W and 8–T in connection with various registration activities involving floor brokers, floor traders, futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms or leverage transaction merchants, and their principals and associated persons, as applicable. Forms 7–R, 7–W and 8–T were not amended in connection with the revision of Form 8–R.

[3] OMB control number 3038–0072 also covers Commission Forms 7–R, 7–W and 8–T in connection with various registration activities involving swap dealers and major swap participants, and principals thereof. Forms 7–R, 7–W and 8–T were not amended in connection with the revision of Form 8–R.

[4] The Commission has recently made a series of additional non-substantive changes to Form 8–R. The FBI Privacy Act Statement and the Noncriminal Justice Applicant's Privacy Rights Disclosure are added to Form 8–R. Both sets of disclosures are related to the preexisting requirement that applicants have their fingerprints taken in connection with registration. Also, there are several grammatical changes and changes to specific verbiage, none of which are substantive.

II. Commission Form 3–R

Firms and individuals historically were required to use Form 3–R to update or change the registration information that they previously supplied on either a Form 7–R or 8–R. The Commission no longer requires firms and individuals to use Form 3–R. Updating registration information is now accomplished online, directly via electronic versions of Commission Forms 7–R or 8–R. In light of the obsolescence of Form 3–R, the Commission proposed in the 60-Day Notice to formally cancel the 3–R for PRA purposes, and to reassign to Forms 7–R and 8–R the information collection burdens that had been associated with Form 3–R.

The collection of information related to Form 3–R was previously approved by OMB in accordance with the PRA under OMB control number 3038–0023. The information collection burden associated with Form 3–R is 0.1 hours. In reassigning that burden to Forms 7–R and 8–R, the Commission believes that an additional 0.1 hours should be assigned to the Form 7–R and 8–R.[5] The reassignment of the information collection burden for the Form 3–R simply reallocates a portion of the existing information collection burden within OMB control number 3038–0023, but it does not increase or decrease the total information collection burden under that control number. Accordingly, the information collection burden for Form 8–R under OMB control number 3038–0023 is 1.0 hour, which consists of the previous estimate of 0.8 hours, plus an additional 0.1 hours associated with the amendments to the 8–R, and plus an additional 0.1 hours associated with the functionality that previously could be attributed to Form 3–R.

OMB control number 3038–0072 previously did not account for the burden hours associated with Form 3–R. The information collection burden for Form 8–R under OMB control number 3038–0072 should be modified to address the fact that the functionality of former Form 3–R now exists in the electronic version of Form 8–R. The Commission believes that the burden hours for Form 8–R should be increased by 0.1 hours under OMB control number 3038–0072 as well. Accordingly, the information collection burden for Form 8–R under OMB control number 3038–0072 is 1.0 hour, which consists of the previous estimate of 0.8 hours, plus an additional 0.1 hours associated with the amendments to the 8–R, and plus an additional 0.1 hours associated with the functionality that previously could be attributed to Form 3–R.

III. Comments

In the 60-Day Notice, the Commission requested comments on, among other things, its estimates regarding the modified information collection burdens associated with the amendments to Form 8–R and the cancellation of Form 3–R. The Commission did not receive any comments that addressed any of its estimates or any other aspect of the information collection.

Burden statement: As explained above, the Commission believes that the revisions to Form 8–R increase the information collection burdens for that form under OMB control numbers 3038–0023 and 3038–0072. Additionally, the Commission believes that reassigning to Form 8–R the information collection burden formerly associated with Commission Form 3–R reallocates the existing information collection burdens within OMB control number 3038–0023, and therefore does not alter the total information collection burden under that control number. Lastly, the Commission believes that updating the information collection burden under OMB control number 3038–0072 to account for the fact that the functionality of former Form 3–R is included in Form 8–R, will cause an additional modest increase in the information collection burden under that control number.

The Commission estimates the burden of this collection of information under OMB control number 3038–0023 to be:

Respondents/affected entities: Users of Form 8–R, specifically (i) associated persons of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, and leverage transaction merchants; (ii) principals of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms, or leverage transaction merchants; (iii) floor brokers; (iv) floor traders; and (v) floor trader order enterers.

Estimated number of respondents: 78,055.[6]

Estimated total annual burden on respondents: 7,735 hours.[7]

Frequency of collection: Periodically.

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

The Commission estimates the burden of this collection of information under OMB control number 3038–0072 to be:

Respondents/affected entities: Users of Form 8–R, specifically principals of swap dealers and of major swap participants.

Estimated number of respondents: 772.[8]

Estimated total annual burden on respondents: 672 hours.[9]

[5] The Commission anticipates revising its Form 7–R in the immediate future. The PRA implications of the amendments to Form 7–R for OMB control numbers 3038–0023 and 3038–0072, including accounting for burden hours associated with former Form 3–R, will be addressed at that time.

[6] The revisions to Form 8–R do not change the estimated number of respondents. However, regarding the estimated number of respondents for OMB Control No. 3038–0023, the estimate in the 60-Day Notice incorrectly stated that there were 78,109 respondents, which was the total number of responses. The correct estimate at that time was 77,857. An additional 198 respondents were added under ICR Ref. No. 201604–3038–003, related to changes made by the Alternative to Fingerprinting Requirement For Foreign Natural Persons final rule. As a result, the total estimated number of respondents currently is 78,055.

[7] Regarding the estimated total annual burden hours on respondents, the estimate in 60-Day Notice was 7,210, which consisted of the previous burden of 7,030 (from ICR Ref. No. 201412–3038–002), which was temporarily rounded down to 7,000 for the purposes of calculating the burden associated with Form 8–R, plus an additional 210 hours attributable to the revisions to Form 8–R. The 30-day notice eliminates the temporary rounding utilized in the 60-day notice and adds the 30 burden hours back into the total. The 30-day notice also includes an additional 495 hours that were added to the collection under ICR Ref. No. 201604–3038–003, related to changes made by the Alternative to Fingerprinting Requirement For Foreign Natural Persons final rule. As a result, the estimated total annual burden on respondents currently is 7,735. This estimate includes the collection burdens associated with Forms 7–R, 7–W, 8–R and 8–T, based on the historical practice of the Commission of addressing the burden estimates in aggregate, rather than separately on a form-by-form basis, for all of the registration forms: Forms 7–R, 7–W, 8–R, and 8–W.

[8] Regarding the estimated number of respondents for OMB Control No. 3038–0072, the estimate in 60-Day Notice was 770. An additional 2 respondents were added to the collection under ICR Ref. No. 201603–3038–006, related to changes made by the Alternative to Fingerprinting Requirement For Foreign Natural Persons final rule. As a result, the total estimated number of respondents currently is 772. The revisions to Form 8–R do not change the estimated number of respondents.

[9] Regarding the estimated total annual burden on respondents, the estimate in 60-Day Notice was 648, which consisted of the previous burden of 629 (from ICR Ref. No. 201512–3038–015), plus an additional 19 hours attributable to the revisions to Form 8–R. An additional 5 hours were added under ICR Ref. No. 201603–3038–006, related to changes made by the Alternative to Fingerprinting Requirement For Foreign Natural Persons final rule. Also, an additional 19 hours are being added to account for the functionality in the Form 8–R that previously could have been attributed to the now-obsolete Form 3–R. As a result, the estimated total annual burden on respondents currently is 672. This estimate includes the collection burdens associated with Forms 7–R, 7–W, 8–R and 8–T, based on the historical practice of the Commission of addressing the burden estimates in aggregate, rather than separately on a form-by-form basis, for

Continued

Frequency of collection: Periodically.

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

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

Dated: December 6, 2018.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2018–26848 Filed 12–11–18; 8:45 am]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; AmeriCorps Member Application; Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled AmeriCorps Member Application for review and approval in accordance with the Paperwork Reduction Act.

DATES: Comments may be submitted, identified by the title of the information collection activity, by January 11, 2019.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) By email to: *smar@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Erin Dahlin, at 202–606–6931 or by email to *edahlin@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on October 2, 2018 at 83 FR 49550. This comment period ended December 3, 2018. No public comments were received from this Notice.

Title of Collection: AmeriCorps Member Application.

OMB Control Number: 3045–0054. Type of Review: Renewal.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 250,000.

Total Estimated Number of Annual Burden Hours: 281,250.

Abstract: Currently, CNCS is soliciting comments concerning its proposed renewal of the AmeriCorps Member Application Form. Applicants will respond to the questions included in this ICR in order to apply to serve as AmeriCorps members. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on December 31, 2018.

Dated: November 26, 2018.

Erin Dahlin,

Acting Chief of Program Operations.

[FR Doc. 2018–26905 Filed 12–11–18; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket DARS–2018–0057]

RIN 0750–AK36

Defense Federal Acquisition Regulation Supplement: Contract Financing (DFARS Case 2019–D001); Public Meetings

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Announcement of public meetings.

SUMMARY: DoD is hosting several public meetings to obtain views of experts and interested parties in Government and the private sector regarding revising policies and procedures for contract financing, performance incentives, and associated regulations for DoD contracts.

DATES:

Public Meeting Dates: The public meetings will be held on the following dates:

- January 10, 2019, from 9:00 a.m. to 12:00 p.m., EST.
- January 22, 2019, from 1:30 p.m. to 4:30 p.m., EST.
- February 19, 2019, from 1:00 p.m. to 4:00 p.m., EST.

Registration Dates: Registration to attend the public meetings must be received no later than close of business on the following dates:

- January 3, 2019, for the meeting on January 10th.
- January 15, 2019, for the meeting on January 22nd.
- February 12, 2019, for the meeting on February 19th.

Information on how to register for the public meetings is provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: The three public meetings will be held in the Mark Center Auditorium, 4800 Mark Center Drive, Alexandria, VA 22350–3603. The Mark Center Auditorium is located on level B–1 of the building.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, DPC/DARS, at 571–372–6106.

SUPPLEMENTARY INFORMATION: DoD is hosting several public meetings to obtain views of experts and interested parties in Government and the private sector regarding revising policies and procedures for contract financing, performance incentives, and associated regulations for DoD contracts.

Registration: To ensure adequate room accommodations and to facilitate

all of the registration forms: Forms 7–R, 7–W, 8–R, and 8–W.

security screening and entry to the Mark Center, individuals wishing to attend the public meeting must register by the close of business on the dates listed in the **DATES** section of this notice, by sending the following information via email to *osd.dfars@mail.mil:*

(1) Full name.

(2) Valid email address.

(3) Valid telephone number.

(4) Company or organization name.

(5) Whether the individual is a U.S. citizen.

(6) The date(s) of the public meeting(s) the individual wishes to attend.

(7) Whether the individual intends to make a presentation, and, if so, the individual's title.

Building Entry: Upon receipt of an email requesting registration, the Defense Acquisition Regulations System will provide notification to the Pentagon Force Protection Agency (PFPA) that the individual is requesting approval for entry to the Mark Center on the date(s) provided. PFPA will send additional instructions to the email address provided in the request for registration. The registrant must follow the instructions in the PFPA email in order to be approved for entry to the Mark Center.

One valid government-issued photo identification card (*i.e.,* driver's license or passport) will be required in order to enter the building.

Attendees are encouraged to arrive at least 30 minutes prior to the start of the meeting to accommodate security procedures.

Public parking is not available at the Mark Center.

Presentations: If you wish to make a presentation, please submit an electronic copy of your presentation via email to *osd.dfars@mail.mil* no later than the registration date for the specific meeting listed in the **DATES** section of this notice. Each presentation should be in PowerPoint to facilitate projection during the public meeting and should include the presenter's name, organization affiliation, telephone number, and email address on the cover page. Please submit presentations only and cite ''Public Meeting, DFARS Case 2019–D001'' in all correspondence related to the public meeting. There will be no transcription at the meeting. The submitted presentations will be the only record of the public meeting and will be posted to the following website at the conclusion of the public meeting: *https://www.acq.osd.mil/dpap/dars/contract_financing.html.*

Special accommodations: The public meeting is physically accessible to people with disabilities. Requests for reasonable accommodations, sign language interpretation, or other auxiliary aids should be directed to Daniel Weinstein at 571–372–6105, by no later than the registration date for the specific meeting listed in the **DATES** section of this notice.

The TTY number for further information is: 1–800–877–8339. When the operator answers the call, let him or her know that the agency is the Department of Defense and the point of contact is Daniel Weinstein at 571–372–6105.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2018–26899 Filed 12–11–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity (NACIQI)

AGENCY: National Advisory Committee on Institutional Quality and Integrity (NACIQI), U.S. Department of Education.

ACTION: Request for nominations to serve on the National Advisory Committee on Institutional Quality and Integrity (NACIQI).

SUMMARY: Per the authorizing legislation for the NACIQI, the Secretary of the U.S. Department of Education (Secretary) is seeking nominations for individuals to serve on the NACIQI.

DATES: Nominations must be received no later than Friday, January 11, 2019.

ADDRESSES: You may submit nominations, including attachments via email to: *cmtemgmtoffice@ed.gov* (specify in the email subject line ''NACIQI Nomination''). For questions, please contact the U. S. Department of Education, Committee Management Office at (202) 401–3677.

SUPPLEMENTARY INFORMATION: NACIQI's Statutory Authority and Function: The NACIQI is established under Section 114 of the HEA, and is composed of 18 members appointed—

(A) On the basis of the individuals' experience, integrity, impartiality, and good judgment;

(B) From among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, representing all sectors and types of institutions of higher education; and

(C) On the basis of the individuals' technical qualifications, professional standing, and demonstrated knowledge in the fields of accreditation and administration of higher education.

The NACIQI meets at least twice a year and advises the Secretary with respect to:

- The establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part H of Title IV, HEA.
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.
- The eligibility and certification process for institutions of higher education under Title IV of the HEA, together with recommendations for improvements in such process.
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary may prescribe by regulation.

Nomination Process: Interested persons or organizations may nominate qualified individuals. To nominate an individual or yourself for appointment to the NACIQI, please submit the following information to the U.S. Department of Education.

- A cover letter addressed to the Secretary as follows: Honorable Betsy DeVos, Secretary of Education, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. In the letter, please state your reason(s) for nominating the individual or yourself;
- A copy of the nominee's or your current resume or curriculum vitae
- Contact information for the nominee (name, title, business address, business phone, and business email address)

In addition, the cover letter must include a statement affirming that the nominee (if you are nominating someone other than yourself) has agreed to be nominated and is willing to serve on the NACIQI if selected. Nominees should be broadly knowledgeable about higher education and accreditation.

Electronic Access to this Document: The official version of this document is published in the **Federal Register**. Free internet access to the official version of this notice in the **Federal Register** and the applicable Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site, you can view this document, as well as all other documents of this Department published in the **Federal Register**, in

text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

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

Diane Auer Jones,

Principal Deputy Under Secretary Delegated to Perform the Duties of the Under Secretary and Assistant Secretary for the Office of Postsecondary Education, U.S. Department of Education.

[FR Doc. 2018–26879 Filed 12–11–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0131]

Agency Information Collection Activities; Comment Request; Progress in International Reading Literacy Study (PIRLS 2021) Field Test Recruitment

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before February 11, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0131. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street, SW PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–502–7411 or email *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Progress in International Reading Literacy Study (PIRLS 2021) Field Test Recruitment.

OMB Control Number: 1850–0645.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Individual or Households.

Total Estimated Number of Annual Responses: 1,515.

Total Estimated Number of Annual Burden Hours: 295.

Abstract: The Progress in International Reading Literacy Study (PIRLS) is an international assessment of fourth-grade students' achievement in reading. PIRLS reports on four benchmarks in reading achievement at grade 4 and on a variety of issues related to the education context for the students in the sample, including instructional practices, school resources, curriculum implementation, and learning supports outside of school. Since its inception in 2001, PIRLS has continued to assess students every 5 years (2001, 2006, 2011, and 2016), with the next PIRLS assessment, PIRLS 2021, being the fifth iteration of the study. Participation in this study by the United States at regular intervals provides data on student achievement and on current and past education policies and a comparison of U.S. education policies and student performance with those of the U.S. international counterparts. In PIRLS 2016, 58 education systems participated. The United States will participate in PIRLS 2021 to continue to monitor the progress of its students compared to that of other nations and to provide data on factors that may influence student achievement. PIRLS is coordinated by the International Association for the Evaluation of Educational Achievement (IEA), an international collective of research organizations and government agencies that create the assessment framework, the assessment instrument, and background questionnaires. The IEA decides and agrees upon a common set of standards and procedures for collecting and reporting PIRLS data, and defines the studies' timeline, all of which must be followed by all participating countries. As a result, PIRLS is able to provide a reliable and comparable measure of student skills in participating countries. In the U.S., the National Center for Education Statistics (NCES) conducts this study. In preparation for the PIRLS 2021 main study, all countries are asked to implement a field test in 2020. The purpose of the PIRLS field test is to evaluate new assessment items and background questions, to ensure practices that promote low exclusion rates, and to ensure that classroom and student sampling procedures proposed for the main study are successful. Data collection for the field test in the U.S. will occur from March through April 2020 and for the main study from March through June 2021. This submission describes the overarching plan for all phases of the data collection, including the 2021 main study and requests approval for all activities, materials, and response burden related to the field test recruitment, scheduled to begin in May 2019.

Dated: December 7, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–26859 Filed 12–11–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–19–000]

Magnolia LNG, LLC; Notice of Application

Take notice that on November 19, 2018, Magnolia LNG, LLC (Magnolia LNG), 1001 McKinney, Suite 600, Houston, Texas 77002, filed an application in Docket No. CP19–19–000, pursuant to Section 3(a) of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations seeking an amendment to the authorization granted by the Commission on April 15, 2016, in Docket No. CP14–347–000. Through its amendment application, Magnolia LNG seeks authorization from the Commission to increase the total liquefied natural gas production capacity of its liquefaction project from the currently authorized 8 million tons per annum (MTPA) to 8.8 MTPA, or 1.4 billion cubic feet per day. The facilities are located in Lake Charles, Calcasieu Parish, Louisiana, as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Kinga Doris, Magnolia LNG, LLC, 1001 McKinney, Suite 600, Houston, Texas 77002, (713) 815–6921; or David L. Wochner, K&L Gates LLP, 1601 K Street, NW, Washington, DC 20006, (202) 778–9000, *David.Wochner@klgates.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made in the proceeding with the Commission and must provide a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, and will be notified of any meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: December 27, 2018.

Dated: December 6, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26894 Filed 12–11–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–137–000.
Applicants: Vermont Transco LLC.
Description: Response to October 9, 2018 Deficiency Letter of Vermont Transco LLC.
Filed Date: 10/24/18.
Accession Number: 20181024–5167.
Comments Due: 5 p.m. ET 12/13/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–29–000.
Applicants: Crocker Wind Farm, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Crocker Wind Farm, LLC.
Filed Date: 12/3/18.
Accession Number: 20181203–5142.
Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: EG19–30–000.
Applicants: Wheelabrator Concord Company, L.P.
Description: Self-Certification of Exempt Wholesale Generator Status of Wheelabrator Concord Company, L.P.
Filed Date: 12/3/18.
Accession Number: 20181203–5236.
Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: EG19–31–000.
Applicants: Vermillion Power, L.L.C.
Description: Self-Certification of EG or FC of Vermillion Power, L.L.C.
Filed Date: 12/3/18.
Accession Number: 20181203–5265.
Comments Due: 5 p.m. ET 12/24/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–162–021; *ER11–2044–026; ER13–1266–018*; *ER15–2211–015*.

Applicants: Bishop Hill Energy II LLC, CalEnergy, LLC, MidAmerican Energy Company, MidAmerican Energy Services, LLC.

Description: Notice of Non-Material Change in Status of the Berkshire Hathaway Central Parties.

Filed Date: 12/3/18.

Accession Number: 20181203–5088.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER19–117–001.

Applicants: Innovative Solar 54, LLC.

Description: Tariff Amendment: amendment to 1 to be effective 12/9/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5005.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–118–001.

Applicants: Innovative Solar 67, LLC.

Description: Tariff Amendment: amendment to 1 to be effective 12/6/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5007.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–396–001.

Applicants: AES Shady Point, LLC.

Description: Tariff Amendment: AES Shady Point Errata to MBR Tariff to be effective 11/27/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5001.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–486–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2018–12–04 Mesquite Solar 5 LGIA to be effective 12/3/2018.

Filed Date: 12/4/18.

Accession Number: 20181204–5141.

Comments Due: 5 p.m. ET 12/26/18.

Docket Numbers: ER19–487–000.

Applicants: GridLiance West LLC.

Description: § 205(d) Rate Filing: GLW Certificate of Concurrence update to be effective 11/10/2018.

Filed Date: 12/4/18.

Accession Number: 20181204–5143.

Comments Due: 5 p.m. ET 12/26/18.

Docket Numbers: ER19–488–000.

Applicants: Idaho Power Company.

Description: § 205(d) Rate Filing: Housekeeping Clarifications and Revisions to OATT to be effective 2/4/2019.

Filed Date: 12/6/18.

Accession Number: 20181206–5000.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–489–000.

Applicants: South Carolina Electric & Gas Company.

Description: § 205(d) Rate Filing: McCormick CPW NITSA to be effective 1/1/2019.

Filed Date: 12/6/18.

Accession Number: 20181206–5002.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–490–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: BPA Agmt to Replace BPA CB 1L1 at Malin to be effective 2/4/2019.

Filed Date: 12/6/18.

Accession Number: 20181206–5003.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–491–000.

Applicants: Midcontinent Independent System Operator, Inc., Otter Tail Power Company.

Description: § 205(d) Rate Filing: 2018–12–06_SA 3020 OTP–OTP 1st Revised E&P (J510) to be effective 11/27/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5032.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–492–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of SA No. 4795; Queue No. AC2–139 to be effective 1/11/2019.

Filed Date: 12/6/18.

Accession Number: 20181206–5067.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–493–000.

Applicants: Midcontinent Independent System Operator, Inc., Otter Tail Power Company.

Description: § 205(d) Rate Filing: 2018–12–06_SA 3219 Flying Cow Wind-OTP E&P (J493 J510) to be effective 12/1/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5120.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–494–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1628R14 Western Farmers Electric Cooperative NITSA NOA to be effective 12/1/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5146.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–495–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of SA No. 4732; Queue No. AC1–202 to be effective 1/11/2019.

Filed Date: 12/6/18.

Accession Number: 20181206–5153.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–496–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA Rabbitbrush Solar Project SA No. 214 to be effective 2/5/2019.

Filed Date: 12/6/18.

Accession Number: 20181206–5163.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–497–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 4054, Queue No. Z2–030 to be effective 11/25/2014.

Filed Date: 12/6/18.

Accession Number: 20181206–5175.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–498–000.

Applicants: California Independent System Operator Corporation.

Description: Tariff Cancellation: 2018–12–06 Notice of Cancellation EIM Implementation Agreement with Puget Sound to be effective 2/5/2019.

Filed Date: 12/6/18.

Accession Number: 20181206–5229.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–499–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Invenergy Solar E&P Agreement to be effective 11/19/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5230.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–500–000.

Applicants: Baltimore Gas and Electric Company, PJM Interconnection, L.L.C.

Description: eTariff filing per 1450: BGE submits revisions to OATT, Att. H–2A re: Tax Cuts and Jobs Act in EL18–64 to be effective 10/1/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5232.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–501–000.

Applicants: California Independent System Operator Corporation.

Description: Tariff Cancellation: 2018–12–06 Notice of Cancellation EIM Implement. Agrmnt.—Arizona Public Service to be effective 2/5/2019.

Filed Date: 12/6/18.

Accession Number: 20181206–5233.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–502–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Sempra Solar Development (Timberland Solar) LGIA Filing to be effective 11/28/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5234.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–503–000.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Cancellation: Notice of Termination of Proxima Solar E&P Agreement to be effective 12/3/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5237.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–504–000.

Applicants: Southern California Edison Company.

Description: Tariff Cancellation: Notice of Cancellation Distribution Service Agreement Decade Energy, LLC to be effective 11/27/2017.

Filed Date: 12/6/18.

Accession Number: 20181206–5251.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–506–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA No. 3198; Queue No. T157 to be effective 1/16/2012.

Filed Date: 12/6/18.

Accession Number: 20181206–5269.

Comments Due: 5 p.m. ET 12/27/18.

Docket Numbers: ER19–507–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–12–06_Revisions to Attachment FF re Cure Period for Recertification to be effective 2/6/2019.

Filed Date: 12/6/18.

Accession Number: 20181206–5280.

Comments Due: 5 p.m. ET 12/27/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 6, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26892 Filed 12–11–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–21–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on November 27, 2018, Columbia Gas Transmission, LLC (Columbia) 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, filed in Docket No. CP19–21–000 a prior notice request pursuant to sections 157.205 and 157.213 of the Commission's regulations under the Natural Gas Act (NGA), and Columbia's blanket certificate issued in Docket No. CP83–76–000, to construct and operate its Artemas A Storage Field New Wells Project (Project). The Project consists of three new directional storage wells and related pipelines and appurtenances at Columbia's Artemas A Storage Field, located in Bedford County, Pennsylvania.

Columbia states that the Project is part of the efforts to improve storage deliverability of the Artemas A Storage Field, as part of the Modernization II Settlement that it entered with its shippers. The Artemas A Storage Field currently consists of 17 active wells and is operated with a total capacity of 14.457 billion cubic feet (Bcf) consisting of 13.70 Bcf of certificated base and working gas, and approximately 0.757 Bcf of residual native gas. Columbia asserts that the Project could provide 58 to 79 Million cubic feet per day of restored deliverability to the Columbia storage system. Columbia avers that the proposed three new wells will be drilled at three of four potential well sites that are currently under evaluation and that the selection will depend upon which combination of sites will provide the desired restored deliverability with the least risk. Columbia states that it will notify the Commission of the three well sites selected for the Project prior commencement of construction. Columbia estimates the cost of the Project to be between $25.4 million to $28.2 million, depending upon which three of the four potential well sites are selected, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Linda Farquhar, Manager, Project Determinations & Regulatory Administration, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas, 77002–2700, by telephone at (832) 320–5685, by facsimile at (832) 320–6685, or by email at *linda_farquhar@transcanada.com*.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process.

Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Dated: December 6, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26889 Filed 12–11–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–349–002.

Applicants: Transource Maryland, LLC, Transource Pennsylvania, LLC, PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance filing per the Commission's 11/1/2018 order re: DEA, SA No. 4579 to be effective 11/2/2016.

Filed Date: 12/3/18.

Accession Number: 20181203–5169.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER17–1561–002.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: Order No. 831 offer cap compliance to set effective date to be effective 12/18/2018.

Filed Date: 12/4/18.

Accession Number: 20181204–5038.

Comments Due: 5 p.m. ET 12/26/18.

Docket Numbers: ER18–463–002.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Transmission Company of Illinois.

Description: Compliance filing: 2018–12–03_ATXI Revisions to Attachment O & MM for Mark Twain Incentive to be effective 2/14/2018.

Filed Date: 12/3/18.

Accession Number: 20181203–5185.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER18–2253–001.

Applicants: Martins Creek, LLC.

Description: Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 12/3/2018.

Filed Date: 12/4/18.

Accession Number: 20181204–5107.

Comments Due: 5 p.m. ET 12/26/18.

Docket Numbers: ER18–2254–001.

Applicants: MC Project Company LLC.

Description: Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 12/3/2018.

Filed Date: 12/4/18.

Accession Number: 20181204–5111.

Comments Due: 5 p.m. ET 12/26/18.

Docket Numbers: ER18–2496–001.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance Filing to the Commission's 11/29/2018 re: Rate Schedule No. 48 to be effective 12/1/2018.

Filed Date: 12/4/18.

Accession Number: 20181204–5123.

Comments Due: 5 p.m. ET 12/26/18.

Docket Numbers: ER19–29–004.

Applicants: NorthWestern Corporation.

Description: Compliance filing: Compliance Filing to Migrate Great Falls NITSA to Tariff ID 41 (Part 1 of 2) to be effective 10/8/2018.

Filed Date: 12/3/18.

Accession Number: 20181203–5190.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER19–29–005.

Applicants: NorthWestern Corporation.

Description: Compliance filing: Compliance Filing to Migrate Great Falls NITSA to Tariff ID 41 (Part 2 of 2) to be effective 11/1/2018.

Filed Date: 12/3/18.

Accession Number: 20181203–5243.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER19–314–001.

Applicants: Bridgewater Power Company, L.P.

Description: Tariff Amendment: Supplement to Bridgewater Power Company L.P. MBR Tariff Application to be effective 1/8/2019.

Filed Date: 12/3/18.

Accession Number: 20181203–5114.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER19–381–001.

Applicants: Power Holding LLC.

Description: Tariff Amendment: Amendment to Application of Market Based Rate to be effective 11/21/2018.

Filed Date: 12/4/18.

Accession Number: 20181204–5080.

Comments Due: 5 p.m. ET 12/26/18.

Docket Numbers: ER19–466–000.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: § 205(d) Rate Filing: Amended and Restated WPC—Rider F and REC to be effective 1/1/2019.

Filed Date: 12/3/18.

Accession Number: 20181203–5249.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER19–467–000.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: NYISO Order 841 compliance revisions re: Electrice Storage Resources (ESRs) to be effective 12/31/9998.

Filed Date: 12/3/18.

Accession Number: 20181203–5276.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER19–468–000.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2018–12–03 Order No. 841 Compliance to be effective 12/3/2018.

Filed Date: 12/3/18.

Accession Number: 20181203–5278.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER19–469–000.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance Filing re Order No. 841 ESR Markets and Operations Proposal to be effective 12/3/2019.

Filed Date: 12/3/18.

Accession Number: 20181203–5296.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER19–470–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Compliance filing: Revisions to ISO–NE Tariff in Compliance with FERC Order No. 841 to be effective 12/3/2019.

Filed Date: 12/3/18.

Accession Number: 20181203–5299.

Comments Due: 5 p.m. ET 12/24/18.

Docket Numbers: ER19–471–000.

Applicants: Wisconsin Power and Light Company.

Description: § 205(d) Rate Filing: Amendment to WPL Wholesale Formula Rate Changes to be effective 12/31/2018.

Filed Date: 12/4/18.

Accession Number: 20181204–5000.

Comments Due: 5 p.m. ET 12/26/18.

Docket Numbers: ER19–472–000.

Applicants: Interstate Power and Light Company.

Description: § 205(d) Rate Filing: Amendment to IPL Wholesale Formula Rate Application to be effective 12/31/2018.

Filed Date: 12/4/18.
Accession Number: 20181204–5001.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–473–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3497 States Edge Wind I Holdings Facilities Construction Agr to be effective 2/2/2019.
Filed Date: 12/4/18.
Accession Number: 20181204–5007.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–474–000.
Applicants: ORNI 18 LLC.
Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff (ORNI 18 LLC) to be effective 2/3/2019.
Filed Date: 12/4/18.
Accession Number: 20181204–5032.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–475–000.
Applicants: USG Oregon LLC.
Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff (USG Oregon LLC) to be effective 2/3/2019.
Filed Date: 12/4/18.
Accession Number: 20181204–5035.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–476–000.
Applicants: Mammoth One LLC.
Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff (Mammoth One LLC) to be effective 2/3/2019.
Filed Date: 12/4/18.
Accession Number: 20181204–5036.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–477–000.
Applicants: Southwest Power Pool, Inc.
Description: Petition for Tariff Waiver of Southwest Power Pool, Inc.
Filed Date: 12/4/18.
Accession Number: 20181204–5039.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–478–000.
Applicants: FirstEnergy Solutions Corp.
Description: § 205(d) Rate Filing: Amendment to Reactive Service Rate Schedule FERC No. 1 to be effective 12/31/9998.
Filed Date: 12/4/18.
Accession Number: 20181204–5040.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–479–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2881R7 City of Chanute, KS NITSA NOA to be effective 6/1/2018.
Filed Date: 12/4/18.
Accession Number: 20181204–5059.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–480–000.
Applicants: Alabama Power Company.
Description: Tariff Cancellation: Greenway Renewable Power LGIA Termination Filing to be effective 12/4/2018.
Filed Date: 12/4/18.
Accession Number: 20181204–5074.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–481–000.
Applicants: LMBE Project Company LLC.
Description: Baseline eTariff Filing: Notice of Succession and Revisons to Market-Based Rate Tariff to be effective 12/4/2018.
Filed Date: 12/4/18.
Accession Number: 20181204–5075.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–482–000.
Applicants: LMBE Project Company LLC.
Description: § 205(d) Rate Filing: Notice of Succession and Revisions to Reactive Service Rate Schedule to be effective 12/4/2018.
Filed Date: 12/4/18.
Accession Number: 20181204–5090.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–483–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Transmital Letter for Notice of Cancellation of WMPA AD1–071 SA No 5075 to be effective 1/7/2019.
Filed Date: 12/4/18.
Accession Number: 20181204–5097.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–484–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–12–04_SA 3218 Crescent Wind—Consumers Energy FCA (J538) to be effective 11/20/2018.
Filed Date: 12/4/18.
Accession Number: 20181204–5102.
Comments Due: 5 p.m. ET 12/26/18.
Docket Numbers: ER19–485–000.
Applicants: Vermillion Power, L.L.C.
Description: Initial rate filing: Reactive Power Tariff filing to be effective 12/31/9998.
Filed Date: 12/4/18.
Accession Number: 20181204–5110.
Comments Due: 5 p.m. ET 12/26/18.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF19–499–000.
Applicants: Berry Petroleum Company, LLC.
Description: Form 556 of Berry Petroleum Company, LLC [McKittrick].
Filed Date: 11/30/18.
Accession Number: 20181130–5427.
Comments Due: None-Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26814 Filed 12–11–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–7–000]

Tennessee Gas Pipeline Company, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed 261 Upgrade Projects and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the 261 Upgrade Projects involving construction and operation of facilities by Tennessee Gas Pipeline Company, LLC (Tennessee Gas) in Agawam, Massachusetts and Suffield, Connecticut. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity.

NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on January 7, 2019.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this project to the Commission before the opening of this docket on October 19, 2018, you will need to file those comments in Docket No. CP19–7–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

Tennessee Gas provided landowners with a fact sheet prepared by the FERC entitled An Interstate Natural Gas Facility On My Land? What Do I Need To Know? This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.*

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings*. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP19–7–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Tennessee Gas proposes to perform the following activities for construction of the Project to provide 72,400 million cubic feet per day (Mcf/d) of natural gas per day to meet existing subscribed shippers need for capacity.

The 261 Upgrade Projects would consist of the following facilities:

- Installation of 2.4 miles of 12-inch-diameter pipeline loop; [1]
- installation of pig launcher and receiver facilities;
- installation of one new Solar Taurus compressor unit to replace two existing compressor units to be removed at Compressor station (CS) 261; and
- removal and replacement of one emergency generator.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the Project would disturb about 38.35 acres of land in Massachusetts and 8 acres in Connecticut for the aboveground facilities and the pipeline loop. Following construction, Tennessee Gas would maintain about 5.37 acres in Massachusetts for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. About 100 percent of the proposed pipeline loop would be co-located with Tennessee Gas's existing facilities, other utilities and roadways. This includes 71 percent of that pipeline loop that would overlap with the permanent easement of Tennessee Gas's Line 261B–100 or on Tennessee Gas owned CS 261 property, 10 percent that would overlap with other utilities and roadway corridors, and 19 percent that would be located adjacent to these corridors.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project, and

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity. A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called eLibrary or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary [3] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the EA.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently, the U.S. Army Corps of Engineers has expressed its intention to participate as a cooperating agency in the preparation of the EA to satisfy NEPA responsibilities related to this project.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is are using this notice to initiate consultation with the applicable State Historic Preservation Offices (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] Commission staff will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). The EA for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP19–7). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: December 6, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26888 Filed 12–11–18; 8:45 am]

BILLING CODE 6717–01–P

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, part 1501.6.

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–1097–004.
Applicants: KO Transmission Company.
Description: ALJ Settlement: Compliance Filing to Remove Certificated At-Risk Condition.
Filed Date: 8/13/18.
Accession Number: 20180813–5117.
Comments Due: 5 p.m. ET 12/13/18.

Docket Numbers: RP19–352–001.
Applicants: Sea Robin Pipeline Company, LLC.
Description: Compliance filing RP19–352–000 Sea Robin Tariff Records to be effective 1/1/2019.
Filed Date: 12/4/18.
Accession Number: 20181204–5113.
Comments Due: 5 p.m. ET 12/11/18.

Docket Numbers: RP19–382–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Yankee to Direct Energy 798318 to be effective 12/5/2018.
Filed Date: 12/4/18.
Accession Number: 20181204–5060.
Comments Due: 5 p.m. ET 12/17/18.

Docket Numbers: RP19–383–000.
Applicants: USG Pipeline Company, LLC.
Description: eTariff filing per 1430: Form 501–G.
Filed Date: 12/4/18.
Accession Number: 20181204–5142.
Comments Due: 5 p.m. ET 12/17/18.

Docket Numbers: RP19–384–000.
Applicants: High Island Offshore System, L.L.C.
Description: eTariff filing per 1430: 501–G Filing.
Filed Date: 12/6/18.
Accession Number: 20181206–5004.
Comments Due: 5 p.m. ET 12/18/18.

Docket Numbers: RP19–385–000.

Applicants: Paiute Pipeline Company.

Description: eTariff filing per 1430: Form No. 501–G Informational Filing.

Filed Date: 12/6/18.

Accession Number: 20181206–5010.

Comments Due: 5 p.m. ET 12/18/18.

Docket Numbers: RP19–386–000.

Applicants: Viking Gas Transmission Company.

Description: eTariff filing per 1430: Filing in Compliance with Order No. 849—Form No. 501–G.

Filed Date: 12/6/18.

Accession Number: 20181206–5011.

Comments Due: 5 p.m. ET 12/18/18.

Docket Numbers: RP19–387–000.

Applicants: Golden Pass Pipeline LLC.

Description: eTariff filing per 1430: Golden Pass Pipeline Form 501–G.

Filed Date: 12/6/18.

Accession Number: 20181206–5012.

Comments Due: 5 p.m. ET 12/18/18.

Docket Numbers: RP19–388–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Yankee to Direct Energy 798321 eff. 12–06–18 to be effective 12/6/2018.

Filed Date: 12/6/18.

Accession Number: 20181206–5014.

Comments Due: 5 p.m. ET 12/18/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 6, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26887 Filed 12–11–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL19–12–000]

Notice of Institution of Section 206 Proceeding and Refund Effective Date

Dynegy Commercial Asset Management, LLC,
Dynegy Energy Services (East), LLC,
Dynegy Energy Services, LLC,
Dynegy Marketing and Trade, LLC,
Dynegy Midwest Generation, LLC,
Dynegy Power Marketing, LLC,
Dynegy Resources Management, LLC,
Illinois Power Generating Company,
Illinois Power Marketing Company,
Illinois Power Resources Generating, LLC

On December 6, 2018, the Commission issued an order in Docket No. EL19–12–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the above-captioned entities' market-based rate authority in the Louisville Gas & Electric/Kentucky Utilities balancing authority area is just and reasonable. *Dynegy Commercial Asset Management, LLC et al.,* 165 FERC 61,211 (2018).

The refund effective date in Docket No. EL19–12–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL19–12–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: December 6, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26890 Filed 12–11–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–15–000]

Dominion Energy Fairless, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On December 4, 2018, the Commission issued an order in Docket No. EL19–15–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether Dominion Energy Fairless, LLC's proposed rate schedule for Reactive Supply and Voltage Control from Generation Sources Service may be unjust and unreasonable. *Dominion Energy Fairless, LLC,* 165 FERC 61,207 (2018).

The refund effective date in Docket No. EL19–15–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL19–15–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: December 6, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26891 Filed 12–11–18; 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: RP19–374–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreements—12/1/2018 to be effective 12/1/2018.

Filed Date: 12/3/18.

Accession Number: 20181203–5191.

Comments Due: 5 p.m. ET 12/17/18.

Docket Numbers: RP19–375–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate—Yankee to Direct Energy 798316 to be effective 12/4/2018.

Filed Date: 12/3/18.

Accession Number: 20181203–5192.

Comments Due: 5 p.m. ET 12/17/18.

Docket Numbers: RP19–376–000.

Applicants: OkTex Pipeline Company, L.L.C.

Description: Compliance filing Compliance Filing to Implement Settlement Rates to be effective 12/1/2018.

Filed Date: 12/3/18.

Accession Number: 20181203–5209.

Comments Due: 5 p.m. ET 12/17/18.

Docket Numbers: RP19–377–000.

Applicants: White River Hub, LLC.

Description: Compliance filing Petition for Approval of Stipulation and Settlement Agreement to be effective N/A.

Filed Date: 12/3/18.

Accession Number: 20181203–5234.

Comments Due: 5 p.m. ET 12/17/18.

Docket Numbers: RP19–378–000.

Applicants: Stingray Pipeline Company, L.L.C.

Description: eTariff filing per 1430: 501–G Compliance to be effective N/A.

Filed Date: 12/3/18.

Accession Number: 20181203–5245.

Comments Due: 5 p.m. ET 12/17/18.

Docket Numbers: RP19–379–000.

Applicants: UGI Mt. Bethel Pipeline Company, LLC.

Description: Operational Purchases and Sales Report of UGI Mt. Bethel Pipeline Company, LLC under RP19–379.

Filed Date: 12/3/18.

Accession Number: 20181203–5327.

Comments Due: 5 p.m. ET 12/17/18.

Docket Numbers: RP19–380–000.

Applicants: UGI Sunbury, LLC.

Description: Operational Purchases and Sales Report of UGI Sunbury, LLC under RP19–380.

Filed Date: 12/3/18.

Accession Number: 20181203–5328.

Comments Due: 5 p.m. ET 12/17/18.

Docket Numbers: RP19–381–000.

Applicants: QEP Energy Company,Aethon III HV LLC.

Description: Joint Petition for Temporary Waivers of Capacity Release Regulations and Policies, et al. of QEP Energy Company, et al. under RP19–381.

Filed Date: 12/3/18.

Accession Number: 20181203–5335.

Comments Due: 5 p.m. ET 12/10/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26813 Filed 12–11–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP19–389–000]

BP Energy Company, Equinor Natural Gas LLC, Shell NA LNG LLC, v. Dominion Energy Cove Point LNG, LP

Notice of Complaint

Take notice that on December 4, 2018, pursuant to Rules 206 and 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and 385.212 (2018), and section 5 of the Natural Gas Act (NGA), 15 U.S.C. 717d(a) (2012), BP Energy Company, Equinor Natural Gas LLC and

Shell NA LNG LLC, (collectively, Complainants) filed a formal complaint against Dominion Energy Cove Point LNG, LP (Respondent), alleging that Respondent violated, *inter alia,* the provisions of its FERC Gas Tariff, sections 3(e)(4), 4(a), 4(b), and 4(d) of the NGA, and section 154.207 of the Commission's regulations, all as more fully explained in the complaint.

The Complainants certify that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on December 24, 2018.

Dated: December 6, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–26893 Filed 12–11–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Central Valley Project, California-Oregon Transmission Project, Pacific Alternating Current Intertie, Third-Party Transmission-Rate Order No. WAPA–185

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed extension of power, transmission and ancillary services formula rates.

SUMMARY: Western Area Power Administration proposes to extend existing formula rates through September 30, 2024, for: Central Valley Project (CVP) power, transmission and ancillary service; California-Oregon Transmission Project transmission; Pacific Alternating Current Intertie transmission; and third-party transmission. The current rates expire on September 30, 2019.

DATES: The consultation and comment period will begin with the publication of this notice and will end on January 11, 2019. WAPA will accept written comments any time during the consultation and comment period.

ADDRESSES: Send written comments to: Mr. Arun Sethi, Power Marketing Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, or email *asethi@wapa.gov.* WAPA will post information on the proposed rate extension to its website at *https://www.wapa.gov/regions/SN/rates.*

FOR FURTHER INFORMATION CONTACT: Ms. Autumn Wolfe, Rates Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4686, or email *wolfe@wapa.gov.*

SUPPLEMENTARY INFORMATION: On July 14, 2016, the Federal Energy Regulatory Commission (FERC) approved Rate Order No. WAPA–173,[1] which extended the rates listed below for three years from October 1, 2016, through September 30, 2019.

- CV–F13 (Base Resource and First Preference Power),
- CPP–2 (Custom Product Power),
- CV–T3 (Firm and Non-Firm Point-to-Point Transmission Service),
- CV–NWT5 (Network Integration Transmission Service),
- COTP–T3 (Firm and Non-Firm Point-to-Point Transmission Service),
- PACI–T3 (Firm and Non-Firm Point-to-Point Transmission Service),
- CV–TPT7 (Third-Party Transmission Service),
- CV–UUP1 (Unreserved Use Penalties),
- CV–RFS4 (Regulation and Frequency Response),
- CV–SPR4 (Spinning Reserves),
- CV–SUR4 (Supplemental Reserves),
- CV–EID4 (Energy Imbalance Service), and
- CV–GID1 (Generator Imbalance).

WAPA proposes to extend the existing formula rates, without any adjustments, for five years from October 1, 2019, through September 30, 2024. WAPA is taking action under 10 CFR 903.23(a).

These formula rates allow for recalculation of unit charges and revenue requirements at least annually. WAPA notifies customers of annual changes in writing, at customer meetings, and by posting on WAPA's website. The existing formula rates provide sufficient revenue to pay all annual costs, including interest expense, and repay required investments within the allowable period consistent with the cost recovery criteria set forth in DOE Order RA 6120.2.

Extending the rates through September 30, 2024, will: (1) Ensure continued cost recovery; (2) allow time to develop rates under the new power marketing plan effective January 1, 2025; and (3) provide WAPA and its customers time to evaluate the Bureau of Reclamation initiatives, including the final CVP Cost Allocation Study results and credits and offsets from the Central Valley Project Improvement Act.

Effective November 19, 2016, the Secretary of Energy delegated, through Delegation Order No. 00–037.00B: (1) The authority to develop power and transmission rates to WAPA's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. Effective November 1, 2018, the Secretary of Energy delegated, through Delegation Order No. 00–002.00Q, the authority (on a non-exclusive basis) to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary of Energy.

WAPA will not hold public information or public comment forums but is initiating a 30-day consultation and comment period in accordance with 10 CFR 903.23(a)(2). Written comments on the proposed rate extension must be received prior to the end of the consultation and comment period to be considered by WAPA in its decision process. WAPA will post comments received to its website, *https://www.wapa.gov/regions/SN/rates,* after the close of the consultation and comment period. After considering comments, WAPA will take further action on the proposed formula rate extension consistent with 10 CFR part 903.23(a).

Dated: November 28, 2018.

Mark A. Gabriel,

Administrator.

[FR Doc. 2018–26886 Filed 12–11–18; 8:45 am]

BILLING CODE 6450–01–P

[1] See *U.S. Department of Energy, Western Area Power Administration,* Docket No. EF16–3–000, 156 FERC ¶ 62,039 (2016). FERC originally approved the rate on December 2, 2011. See *U.S. Department of Energy, Western Area Power Administration,* Docket No. EF11–9–000, 137 FERC ¶ 62,201 (2011).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9987–79–OARM]

Good Neighbor Environmental Board; Notification of Public Advisory Committee Teleconference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Advisory Committee Teleconference.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Good Neighbor Environmental Board (Board) will hold a public teleconference on December 19, 2018 from 12:00 p.m.–4:00 p.m. Eastern Daylight Time. Due to unforeseen administrative circumstances, EPA is announcing this teleconference with less than 15 calendar days' notice. For further information regarding the teleconference and background materials, please contact Ann-Marie Gantner at the number and email provided below.

Background: The Good Neighbor Environmental Board is a federal advisory committee chartered under the Federal Advisory Committee Act, Public Law 92–463. By statute, the Board is required to submit an annual report to the President on environmental and infrastructure issues along the U.S. border with Mexico.

Purpose of Meeting: The purpose of this teleconference is to discuss and approve the Board's annual letter to the President, which focuses on energy infrastructure along the U.S.-Mexico border.

General Information: The agenda and teleconference materials, as well as general information about the Board, can be found at *http://www2.epa.gov/faca/gneb.* If you wish to make oral comments or submit written comments to the Board, please contact Ann-Marie Gantner at least five days prior to the teleconference.

Meeting Access: For information on access or services for individuals with disabilities, please contact Ann-Marie Gantner at (202) 564–4330 or email at *gantner.ann-marie@epa.gov.* To request accommodation of a disability, please contact Ann-Marie Gantner at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: December 4, 2018.

Ann-Marie Gantner,

Designated Federal Officer.

[FR Doc. 2018–26918 Filed 12–11–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2015–0828; FRL–9987–77–OW]

Proposed Modification to National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges From Construction Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed modification to the general permit for construction stormwater discharges and request for public comment.

SUMMARY: All ten Environmental Protection Agency (EPA) Regions today are proposing for public comment a

modification to the 2017 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from construction activities, also referred to as the ''2017 Construction General Permit (CGP)'' or ''2017 CGP'' which became effective on February 16, 2017. The EPA is proposing a modification to the 2017 CGP that is limited to clarifying the intent of several requirements and ensuring consistency with the Construction and Development Effluent Limitations Guidelines and New Source Performance Standards. This action is hereafter referred to as the ''proposed modification'' or ''draft modified permit.'' The proposed modification, if finalized, would replace several existing conditions in the 2017 CGP and relevant fact sheet sections subject to modification, but would not affect any other terms and conditions of the existing permit, including: The eligible coverage area; the number or type of entities eligible to be covered by the permit; nor the five-year permit term of the current 2017 CGP, which will expire on February 16, 2022. The current 2017 CGP remains in effect while the EPA pursues this action. This **Federal Register** notice describes the proposed modification and where the proposed changes can be found in the 2017 CGP. To assist in the public's review of this proposed modification, the EPA has posted a redline strikeout version of the permit and accompanying fact sheet showing all of the proposed changes in context of the documents they would modify at *https://www.epa.gov/npdes/stormwater-discharges-construction-activities;* these documents can also be found in the Docket (EPA–HQ–OW–2015–0828).

DATES: Comments on the proposed modification must be received on or before January 28, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2015–0828 to the *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. A written comment must accompany any multimedia submissions (audio, video, etc.). The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: For further information on the proposed modification, contact the appropriate EPA Regional office listed in Section I.F of this notice, or Emily Halter, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202–564–3324 or email: *halter.emily@epa.gov.*

SUPPLEMENTARY INFORMATION: This section is organized as follows:

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I. General Information

A. Does this action apply to me?

1. Entities Covered by This Permit

The proposed modification described herein would not change the types of entities eligible to be covered under the 2017 CGP. The CGP would continue to be available to cover the following entities, as categorized in the North American Industry Classification System (NAICS):

TABLE 1—ENTITIES COVERED BY THIS DRAFT PERMIT

Category	Examples of affected entities	North American industry classification system (NAICS) code
Industry	Construction site operators disturbing 1 or more acres of land, or less than 1 acre but part of a larger common plan of development or sale if the larger common plan will ultimately disturb 1 acre or more, and performing the following activities:	
	Construction of Buildings	236
	Heavy and Civil Engineering Construction	237

The EPA does not intend the preceding table to be exhaustive, but provides it as a guide for readers regarding the types of activities of which the Agency is now aware that could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your site could be affected by this action, you should carefully examine the definition of ''construction activity'' and ''small construction activity'' in existing EPA regulations at 40 CFR 122.26(b)(14)(x) and 122.26(b)(15), respectively. If you have questions regarding the applicability of this action to a particular entity, consult the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

2. Coverage Area of the Draft Modified Permit

The proposed modification described herein would not change the scope of coverage under the 2017 CGP. Coverage

would remain available to operators of eligible projects for stormwater discharges from construction activities located in those areas where the EPA is the NPDES permitting authority. A list of eligible areas can be found in Appendix B of the 2017 CGP and include the states of New Hampshire, Massachusetts, New Mexico, and Idaho (until July 1, 2021, which is the date Idaho becomes authorized to implement the NPDES Stormwater program), as well as most Indian country lands, and areas in selected states operated by a federal operator. Permit coverage is also available to operators in Puerto Rico, the District of Columbia, and the Pacific Island territories, among others.

B. How can I get copies of these documents and other related information?

1. *Docket.* The EPA has established an official public docket for this action under Docket ID No. EPA–HQ–OW–2015–0828. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Although all documents in the docket are listed in an index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the EPA Docket Center Public Reading Room, open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Water Docket is (202) 566–2426.

2. *Electronic Access.* You may access this **Federal Register** notice electronically through the United States government on-line source for Federal regulations at *http://www.regulations.gov.*

Electronic versions of this draft modified permit and draft modified fact sheet are available on the EPA's NPDES website at *https://www.epa.gov/npdes/stormwater-discharges-construction-activities.*

An electronic version of the public docket is available through the EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. For additional information about the EPA's public docket, visit the Agency's Docket Center homepage at *https://www.epa.gov/dockets.* Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Docket Facility identified in Section I.B.1.

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

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

The EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in the Agency's electronic public docket as the Agency receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. As noted previously, CBI information should not be submitted through *regulations.gov* or by email. When the EPA identifies a comment containing copyrighted material, the Agency will provide a reference to that material in the version of the comment that is placed in the Agency's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to the EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in the EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in the EPA's electronic public docket along with a brief description written by the docket staff.

2. *Tips for Preparing Your Comments.* To assist the EPA in reviewing and evaluating public comments, please consider the following tips and suggestions when preparing your comments for the Agency:

- Identify this draft modified permit by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
- Where possible, organize comments by referencing a paragraph or part of the draft modified permit or draft modified fact sheet, whichever applies.
- Explain as clearly as possible why you agree or disagree with the proposed modification.
- Suggest alternatives and substitute language for any requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns.
- Submit your comments by the comment period deadline identified.

D. Will public hearings be held on this action?

Due to the limited scope of this proposed modification, the EPA has not scheduled any public hearings to receive public comment concerning the draft modified permit. All persons will continue to have the right to provide written comments during the public comment period. However, interested persons may request a public hearing pursuant to 40 CFR 124.12 concerning the draft modified permit. Requests for a public hearing must be sent or delivered in writing to the same address as provided above for public comments prior to the close of the comment period and must state the nature of the issue the requester would like raised in the hearing. Pursuant to 40 CFR 124.12, the EPA shall hold a public hearing if it finds, on the basis of requests, a significant degree of public interest in a public hearing on the draft modified permit. If the EPA decides to hold a public hearing, a public notice of the date, time, and place of the hearing will be made at least 30 days prior to the hearing. Any person may provide written or oral statements and data pertaining to the draft modified permit at the public hearing.

E. What process will the EPA follow to finalize the proposed modification?

After the close of the public comment period, the EPA intends to issue a final decision on the permit modification. Any modification will not be issued until all significant comments have been considered and appropriate changes made to the draft modified permit. The EPA's responses to public comments received will be included in the docket as part of the final modification issuance. Any construction site operator

that has permit coverage under the 2017 CGP prior to the final issuance of the modification will automatically remain covered under the permit and will not have to resubmit or modify their Notice of Intent (NOI) due to the finalized permit modification.

F. Who are the EPA regional contacts for the proposed modification?

For EPA Region 1, contact Suzanne Warner at tel.: (617) 918–1383 or email at *warner.suzanne@epa.gov.*

For EPA Region 2, contact Stephen Venezia at tel.: (212) 637–3856 or email at *venezia.stephen@epa.gov,* or for Puerto Rico, contact Sergio Bosques at tel.: (787) 977–5838 or email at *bosques.sergio@epa.gov.*

For EPA Region 3, contact Carissa Moncavage at tel.: (215) 814–5798 or email at *moncavage.carissa@epa.gov.*

For EPA Region 4, contact Michael Mitchell at tel.: (404) 562–9303 or email at *mitchell.michael@epa.gov.*

For EPA Region 5, contact Brian Bell at tel.: (312) 886–0981 or email at *bell.brianc@epa.gov.*

For EPA Region 6, contact Suzanna Perea at tel.: (214) 665–7217 or email at: *perea.suzanna@epa.gov.*

For EPA Region 7, contact Mark Matthews at tel.: (913) 551–7635 or email at: *matthews.mark@epa.gov.*

For EPA Region 8, contact Amy Clark at tel.: (303) 312–7014 or email at: *clark.amy@epa.gov.*

For EPA Region 9, contact Eugene Bromley at tel.: (415) 972–3510 or email at *bromley.eugene@epa.gov.*

For EPA Region 10, contact Margaret McCauley at tel.: (206) 553–1772 or email at *mccauley.margaret@epa.gov.*

II. Background on the Permit and Proposed Modification

Section 402(p) of the Clean Water Act (CWA) directs the EPA to regulate stormwater discharges under the NPDES program for certain designated sources, including discharges from regulated construction sites. The EPA's NPDES regulations further specify that permits are required for stormwater discharges from construction activities that disturb at least one acre, including sites that are part of a larger common plan of development or sale that will ultimately disturb at least one acre. See 40 CFR 122.26(a)(1)(ii), (a)(9)(i)(B), (b)(14)(x), and (b)(15)(i). Under the statutory and regulatory authority cited above, the EPA issued the final 2017 CGP on January 19, 2017 (82 FR 6534) and the permit became effective on February 16, 2017.

In accordance with 40 CFR 23.2, the 2017 CGP was considered issued for the purposes of judicial review on January 25, 2017. Within the 120-day period of judicial review under section 509(b) of the CWA, both the National Association of Home Builders (NAHB) and the Chesapeake Bay Foundation (CBF) filed petitions for review of the 2017 CGP in the United States Court of Appeals in the D.C. Circuit.

After receiving the petitions for review, the EPA engaged in multiple discussions with both NAHB and CBF in which the parties discussed their concerns about certain permit requirements and how those requirements might be subject to confusion and misinterpretation by construction site operators permitted under the 2017 CGP. Through discussions with the petitioners, the following information was brought to the EPA's attention:

- In the current 2017 CGP, providing parenthetical examples within the definition of ''operator'' describing what type of party could be considered an operator ''in most cases'' may be confusing. See specifically Parts 1.1.1(a) and (b).
- The permit text for certain erosion and sediment control and pollution prevention permit requirements that implement the Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) for Construction & Development (40 CFR part 450) (referred to collectively as ''the C&D rule'') may not adequately connect the permit requirements to controlling stormwater discharges as in the C&D rule.
- The explanation in the 2017 CGP regarding legal responsibility for permit compliance in situations where there are multiple operators may be unclear. The explanation for an instance where there are multiple operators at one construction site who each require permit coverage and who divide permit responsibilities among themselves, including the use and maintenance of a shared stormwater control (such as a sediment basin), may be misinterpreted to mean that each operator must perform every permit-related function, even if those responsibilities were by agreement performed by another operator. Additionally, references to joint and several liability in the current permit may have been an inaccurate way to explain what the permit compliance duties are for multiple operators who share implementation responsibilities under the permit.

Under 40 CFR 122.62(a)(2), the EPA may modify a permit if the Agency is presented with new information during the permit term that was not available at the time of issuance and would have justified the application of different permit conditions at the time of issuance. Based on the information the petitioners provided to the EPA following the issuance of the 2017 CGP, the Agency is proposing a permit modification to clarify the Agency's intent of the related permit requirements.

The proposed modification would remove examples of operators in the definition of operator; align three requirements that implement the C&D rule more closely with the ELG text (one requirement on minimizing dust, one on streambank erosion control, and one on building materials pollution prevention); and clarify the roles and responsibilities of individual operators in multiple operator arrangements. The proposed changes in this modification would simplify the permit language and accompanying fact sheet explanation but would not affect the substantive requirements, applicability, implementation, or enforceability of the permit's current requirements. Only those requirements that the EPA proposes to modify would be reopened in the draft modified permit for public comment (40 CFR 122.62). The proposed modification, if finalized, would replace the existing conditions in the 2017 CGP and relevant fact sheet sections subject to modification, but not affect any other terms and conditions of the permit.

In addition, the proposed modification would not affect the eligible coverage area, the number or type of entities eligible to be covered by the permit, nor the five-year permit term of the current 2017 CGP, which will expire on February 16, 2022. The current 2017 CGP remains in effect while the EPA pursues this proposed permit modification. The proposed modification is summarized in more detail below.

III. Summary of the Proposed Modification

The EPA proposes the following specific changes to the 2017 CGP:

1. *Removing examples in the definition of* ''*operator*''—The EPA proposes to remove the parenthetical examples of the type of party that may be considered an operator from the definition of ''operator.'' If a party wishes to obtain coverage under the 2017 CGP for its stormwater discharges from construction activities, it is the operator who is responsible for submitting to the EPA a Notice of Intent (NOI) for coverage under the permit. In the previous 2012 CGP, the EPA defined an ''operator'' as ''any party associated with a construction project that meets either of the following two criteria: (a)

The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (b) the party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (*e.g.,* they are authorized to direct workers at a site to carry out activities required by the permit).'' During the proposal of the 2017 CGP, the EPA received a public comment stating that, ''to make the meaning [of ''operator''] as clear as possible, it would be helpful for the EPA to include, within the body of the permit, examples of whom it expects to meet part one and part two of the definition.'' To address this comment, in the final issuance of the 2017 CGP, the EPA added the requested examples into the two-part definition of operator. These additions, denoted here in *italicized* text, read as follows: ''an ''operator'' is any party associated with a construction project that meets either of the following two criteria: (a) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications *(e.g., in most cases this is the owner of the site);* or (b) the party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (*e.g.,* they are authorized to direct workers at a site to carry out activities required by the permit; *in most cases this is the general contractor (as defined in Appendix A) of the project).*'' See Parts 1.1.1(a) and (b) of the 2017 CGP.

After the EPA issued the final 2017 CGP, petitioners brought to the Agency's attention that adding the phrase ''in most cases'' followed by examples of who may be considered an operator might cause further confusion to a party trying to determine if it is an operator or not because those examples would not, in every instance, qualify as operators. For example, with respect to the language added to the Part 1.1.1(a) definition of operator (''*e.g.,* in most cases this is the owner of the site.''), the EPA did not intend to indicate that, in every instance, the owner of a site is always considered an operator. The EPA acknowledges that there may be instances where a site owner does not have operational control over construction plans and specifications, and therefore would not be an operator and would not be responsible for seeking permit coverage. Rather than suggesting who might be considered an operator ''in most cases,'' the EPA proposes to remove the examples from both Part 1.1.1(a) and (b), and allow parties to rely solely on the substantive definition of operator for determining if they should seek permit coverage. See Part 1.1.1 of the draft modified permit.

2. *Aligning language of three requirements with the C&D rule*—The EPA proposes to adjust the wording of two erosion and sediment control requirements and one pollution prevention requirement in the 2017 CGP to clarify their intent:

- The current requirement in Part 2.2.6 (Minimize Dust) reads as follows: ''On areas of exposed soil, the operator must minimize the generation of dust through the appropriate application of water or other dust suppression techniques.'' The accompanying fact sheet discusses how this requirement is intended to minimize the discharge of sediment in stormwater from the generation of dust and how dust suppression techniques prevent dust from being generated, minimizing the potential for the dust to accumulate where it is likely to discharge from the site in stormwater discharges. To more precisely convey that dust control is important for preventing sediment from being discharged in stormwater, consistent with the C&D rule at 40 CFR 450.21(a)(5), the EPA proposes to modify the requirement to read, with the addition denoted in *italicized* text: ''On areas of exposed soil, minimize dust through the appropriate application of water or other dust suppression techniques *to control the generation of pollutants that could be discharged in stormwater from the site.*'' See Part 2.2.6 of the draft modified permit.
- The current requirement in Part 2.2.11 (Minimize erosion of stormwater conveyance channels and their embankments . . .) reads as follows: ''Minimize erosion of stormwater conveyance channels and their embankments, outlets, adjacent streambanks, slopes, and downstream waters. Use erosion controls and velocity dissipation devices within and along the length of any stormwater conveyance channel and at any outlet to slow down runoff to minimize erosion.'' Footnote 24 to this requirement states: ''Examples of velocity dissipation devices include check dams, sediment traps, riprap, and grouted riprap at outlets.'' The accompanying fact sheet explains that this requirement implements the C&D ELG to ''control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges'' (40 CFR 450.21(a)(1)), to ''control stormwater discharges. . . to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points'' (40 CFR 450.21(a)(2)), to ''minimize the amount of soil exposed during construction activity'' (40 CFR 450.21(a)(3)), and to ''minimize the disturbance of steep slopes'' (40 CFR 450.21(a)(4)). To streamline this requirement to more precisely focus on controlling stormwater discharges to minimize erosion at discharge points and to align it with the text of the C&D rule at 40 CFR 450.21(a)(2), the EPA proposes to modify the requirement to read as follows: ''Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.'' Footnote 24 would be revised to read as follows: ''Examples of control measures that can be used to comply with this requirement include the use of erosion controls and/or velocity dissipation devices (*e.g.,* check dams, sediment traps), within and along the length of a stormwater conveyance and at the outfall to slow down runoff.'' See Part 2.2.11 of the draft modified permit.
- The current requirement in Part 2.3.3(a) regarding storage, handling, and disposal of building products, materials, and wastes reads as follows: ''For building materials and building products, provide either (1) cover (*e.g.,* plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas.'' One objective the EPA had during the proposal of the 2017 CGP was to streamline the permit as much as possible so that the permit itself was limited to the actual requirements, while explanatory text or notes were moved to the fact sheet. During this streamlining process, the EPA omitted a note from the 2017 CGP that previously appeared in the 2012 CGP in the equivalent section of the permit (*i.e.,* Part 2.3.3.3). The 2012 CGP provision read as follows: ''Note: These requirements do not apply to those products, materials, or wastes that are not a source of stormwater contamination or that are designed to be exposed to stormwater.'' Although the EPA omitted this note in the 2017 CGP, the Agency incorporated by reference the relevant fact sheet discussion from the 2012 CGP, which explained that ''[t]hese requirements implement the 40 CFR 450.21(d)(2) requirement to 'minimize the exposure of building materials, building products,

construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents . . . present on the site to precipitation and to stormwater.' The permit clarifies that the staging or storage of construction materials, building products, or wastes, which are either not a source of contamination to stormwater or are designed to be exposed to stormwater, are not subject to this requirement.'' Therefore, while the EPA incorporated by reference in the 2017 CGP fact sheet the exception to Part 2.3.3(a) for building materials that are not a source of contamination or are designed to be exposed to stormwater, the permit requirement in Part 2.3.3(a) did not explicitly state this as it appears in 40 CFR 450.21(d)(2). To avoid any confusion this omission might cause, the EPA proposes to modify the requirement to read, with the addition denoted in *italicized* text, as follows: ''For building materials and building products, provide either (1) cover (*e.g.,* plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas. *Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).*'' See Part 2.3.3(a) of the proposed modified permit.

3. *Clarifying individual operator responsibility in multiple operator arrangements*—The EPA proposes to modify the 2017 CGP to clarify an individual operator's legal responsibility for permit compliance in situations where there are multiple operators who divide permit responsibilities. In particular, the EPA proposes to remove references to joint and several liability from the current permit since they are, in the Agency's view, an inaccurate explanation of what the permit compliance duties are for multiple operators who share implementation responsibilities under the permit.

In addition, the EPA proposes to clarify that operators who divide responsibilities do not have to duplicate permit-related functions if one operator is appropriately implementing the requirement for the rest of the operators to be in full compliance with the permit. In the proposed modification, the permit would state that, where there are multiple operators associated with the same site, they may develop a group Stormwater Pollution Prevention Plan (SWPPP) instead of multiple individual SWPPPs, but regardless of whether there is a group SWPPP or multiple individual SWPPPs, each operator is responsible for compliance with the permit's terms and conditions, notwithstanding how the SWPPP(s) may divide each operator's responsibilities. This would apply to a scenario where there are multiple operators associated with the same site through a common plan of development or sale (such as a housing development) at which a shared control exists. In this scenario, the operators may develop a group SWPPP instead of multiple individual SWPPPs, and divide amongst themselves various permit-related functions provided that each SWPPP, or a group SWPPP, documents which operator will perform each permit-related function, including those related to the installation and maintenance of the shared control. Regardless of whether there is a group SWPPP or multiple individual SWPPPs, all operators are legally responsible for compliance with the permit, notwithstanding how the SWPPP(s) may divide each operator's individual responsibilities. In other words, if Operator A relies on Operator B to satisfy its permit obligations, Operator A does not have to duplicate those permit-related functions if Operator B is implementing them for both operators to be in compliance with the permit. However, Operator A remains responsible for permit compliance if Operator B fails to implement any measures necessary for Operator A to comply with the permit. See Part 1.1.1, footnote 1; Part 7.1, footnote 53 (which the EPA now proposes to combine with footnote 52); the accompanying fact sheet explanation for these Parts; and Appendix A Definitions for ''Shared Control'' of the proposed modified permit.

IV. Analysis of Economic Impacts

Due to the narrow scope of this proposed permit modification and the focus on clarifying the intent of certain requirements rather than changing the underlying requirement itself, the EPA does not expect any change in economic impact from this proposed permit modification. It is therefore unnecessary for the EPA to revise the economic analysis that was prepared for the final 2017 CGP. A copy of the EPA's economic analysis, titled ''Cost Impact Analysis for the 2017 Construction General Permit (CGP),'' is available in the docket for this proposed permit modification.

V. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

The Office of Management and Budget (OMB) determined that this action is not significant under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

VI. Compliance With the National Environmental Policy Act (NEPA) for the National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges From Construction Activities

Pursuant to the National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4307h), the Council on Environmental Quality's NEPA regulations (40 CFR part 15), and the EPA's regulations for implementing NEPA (40 CFR part 6), the Agency has determined that the modifications to the 2017 CGP are eligible for a categorical exclusion requiring documentation under 40 CFR 6.204(a)(1)(iv). This category consists of ''actions involving reissuance of a NPDES permit for a new source providing the conclusions of the original NEPA document are still valid (including the appropriate mitigation), there will be no degradation of the receiving waters, and the permit conditions do not change or are more environmentally protective.'' 40 CFR 6.204(a)(1)(iv). The EPA completed an Environmental Assessment/Finding of No Significant Impact (EA/FONSI) for the previous 2012 CGP and issued a categorical exclusion under 40 CFR 6.204(a)(1)(iv) for the 2017 reissuance. The EPA determined the analysis and conclusions regarding the potential environmental impacts, reasonable alternatives, and potential mitigation included in the EA/FONSI were still valid for the 2017 reissuance of the CGP because the permit conditions are either the same or, in some cases, are more environmentally protective.

As stated in Section II of this **Federal Register** Notice on the Background on the Permit and Proposed Modification, the proposed modification to the 2017 CGP, if finalized, would remove examples of operators in the definition of operator; align three requirements that implement the C&D rule more closely with the ELG text; and clarify the roles and responsibilities of individual operators in multiple operator arrangements. The proposed changes in this modification would simplify the permit language and accompanying fact sheet explanation but would not affect the substantive requirements, applicability,

implementation, or enforceability of the permit's current requirements. Therefore, the same analysis and conclusions found in the EA/FONSI for the 2012 CGP still stand for this modification of the 2017 CGP.

Actions may be categorically excluded if the action fits within a category of action that is eligible for exclusion and the proposed action does not involve any extraordinary circumstances. The EPA has reviewed the proposed action and determined that the modification of the 2017 CGP does not involve any extraordinary circumstances listed in 40 CFR 6.204(b)(1)–(b)(10). Prior to the issuance of the final modification of the 2017 CGP, the EPA Responsible Official will document the application of the categorical exclusion and will make it available to the public on the Agency's website at *https://cdxnodengn.epa.gov/cdx-enepa-public/action/nepa/search.* If new information or changes in the draft modified permit involve or relate to at least one of the extraordinary circumstances or otherwise indicate that the permit may not meet the criteria for categorical exclusion, the EPA will prepare an EA or Environmental Impact Statement (EIS).

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

Executive Order (E.O.) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

Consistent with the EPA's previous determination for the 2017 CGP, this proposed modification to the 2017 CGP, if finalized, would not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the requirements in the draft modified permit would apply equally to all construction projects that disturb one or more acres in areas where the Agency is the permitting authority, and the erosion and sediment control proposed provisions increase the level of environmental protection for all affected populations.

VIII. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action does not have tribal implications as specified in Executive Order 13175. It does not have a substantial direct effect on one or more Indian tribes. Thus, Executive Order 13175 does not apply to this proposed action.

In compliance with Executive Order 13175, the EPA consulted with tribal officials during the development of 2017 CGP to gain an understanding of and, where necessary, address any areas of the draft permit that may affect tribal interest. In the course of this consultation, the EPA conducted several outreach activities with tribal officials which are detailed in the **Federal Register** Notice for the final 2017 CGP (82 FR 6534). During the finalization of 2017 CGP, the EPA also completed the CWA Section 401 certification procedures with all applicable tribes where the permit applies (see Appendix B of the 2017 CGP).

As part of this proposed modification, the EPA reviewed the tribal conditions that were incorporated into the 2017 CGP under Section 401 certifications to identify any requirements that this proposed action might affect. See Part 9 of the 2017 CGP. Only two tribal conditions reference a current permit requirement that is subject to this proposed modification, Part 2.2.11 (Minimize erosion of stormwater conveyance channels and their embankments . . .):

- The following condition applies only to discharges on the Pueblo of Isleta Reservation: ''Under Minimize erosion, a permittee must secure permission from the Pueblo or affected Pueblo of Isleta land assignment owner if a dissipation device needs to be placed up- or down-elevation of a given construction site. CGP 2.2.11 at pg. 11.'' See Part 9.4.2.1(j) of the 2017 CGP.
- The following condition applies only to discharges on the Puyallup Tribe of Indians Reservation: ''To the extent feasible, utilize vegetated, upland areas of the site to infiltrate dewatering water before discharge. At all points where dewatering water is discharged, comply with the velocity dissipation requirements of Part 2.2.11 of EPA's 2017 General Construction Stormwater Permit. Examples of velocity dissipation devices include check dams, sediment traps, riprap, and grouted riprap at outlets.'' See Part 9.7.4.4(i) of the 2017 CGP.

As stated in Section II of this **Federal Register** Notice, the proposed modification to the 2017 CGP, if finalized, would remove examples of operators in the definition of operator; align three requirements that implement the C&D rule more closely with the ELG text, including the requirement in Part 2.2.11; and clarify the roles and responsibilities of individual operators in multiple operator arrangements. The proposed changes in this modification would simplify the permit language and accompanying fact sheet explanation but would not affect the substantive requirements, applicability, implementation, or enforceability of the permit's current requirements. Due to the narrow scope of this proposed permit modification and the focus on clarifying the intent of certain requirements rather than changing the underlying requirement itself, the proposed action would not change the interpretation or implementation of the tribal conditions, in particular those referencing Part 2.2.11, and therefore any tribal impacts from this proposed modification would be limited.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: November 28, 2018.
Deborah Szaro,
Acting Regional Administrator, EPA Region 1.

Dated: November 28, 2018.
Javier Laureano, Ph.D.,
Director, Clean Water Division, EPA Region 2.

Dated: November 28, 2018.
Carmen R. Guerrero-Perez,
Director, Caribbean Environmental Protection Division, EPA Region 2.

Dated: November 28, 2018.
Catharine McManus,
Acting Deputy Director, Water Protection Division, EPA Region 3.

Dated: November 28, 2018.
Jeaneanne M. Gettle,
Director, Water Protection Division, EPA Region 4.

Dated: November 28, 2018.
Deborah C. Baltazar,
Acting Division Director, Water Division, EPA Region 5.

Dated: November 28, 2018.
David F. Garcia, P.E.,
Deputy Director, Water Division, EPA Region 6.

Dated: November 28, 2018.
Jeffery Robichaud,
Division Director, Water, Wetlands and Pesticides Division, EPA Region 7.

Dated: November 28, 2018.
Darcy O'Connor,
Assistant Regional Administrator, Office of Water Protection, EPA Region 8.

Dated: November 28, 2018.
Tomás Torres,
Director, Water Division, EPA Region 9.

Dated: November 28, 2018.

Daniel D. Opalski,

Director Office of Water and Watersheds, EPA Region 10.

[FR Doc. 2018–26916 Filed 12–11–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2018–0745; FRL–9987–80–OGC]

Proposed Joint Stipulation, Endangered Species Act Claims

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed stipulation; request for public comment.

SUMMARY: In accordance with the EPA Administrator's October 16, 2017, Directive Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements, notice is hereby given of a proposed joint stipulation and proposed stipulated notice of dismissal in the United States District Court for the Northern District of California in the case of Ellis, et al., v. Keigwin, et al., No. 3:13–cv–01266. On May 8, 2017, the court issued an order on summary judgment dismissing claims against EPA under the Federal Insecticide, Fungicide and Rodenticide Act (''FIFRA''), but finding that EPA failed to perform duties mandated by the Endangered Species Act (''ESA'') to consult with the United States Fish and Wildlife Service (''FWS'') regarding 59 EPA-approved pesticide products containing either of the insecticidal active ingredients clothianidin or thiamethoxam. The parties are proposing to reach a settlement in the form of a joint stipulation on the appropriate remedy for the court's finding of liability. Among other provisions, the joint stipulation would set a June 30, 2022, deadline for EPA to complete ESA effects determination for EPA's registration reviews of clothianidin and thiamethoxam and, as appropriate, request initiation of any ESA consultations with FWS that EPA may determine to be necessary as a result of those effects determinations. EPA is also taking comment on a proposed stipulated notice of dismissal that would be entered with the court following execution of the joint stipulation.

DATES: Written comments on the proposed joint stipulation and stipulated notice of dismissal must be received by January 11, 2019.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2018–0745 online at *www.regulations.gov* (EPA's preferred method). For comments submitted at *www.regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA generally will not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mark Dyner, Pesticides and Toxic Substances Law Office (2333A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone: (202) 564–1754; email address: *dyner.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Joint Stipulation and Stipulated Notice of Dismissal

On March 21, 2013, Plaintiffs (several beekeepers and public interest organizations) filed suit in the United States District Court for the Northern District of California. Plaintiffs brought claims alleging that EPA had improperly denied a petition to suspend products containing clothianidin and that EPA's registration of certain clothianidin and thiamethoxam products violated certain registration requirements of FIFRA, and violated section 7(a)(2) of the ESA because EPA had failed to consult with FWS prior to issuing the registrations. On May 8, 2017, the court granted EPA's summary judgment motion with respect to the FIFRA claims and partially granted Plaintiffs' summary judgment motion with respect to the ESA claims, finding that EPA had failed to comply with the consultation requirements of section 7(a)(2) with respect to 59 clothianidin and thiamethoxam products. In its order, the court also directed the parties to develop a briefing schedule for determining the appropriate remedy and, concurrently, to schedule a settlement conference to determine whether the parties could settle the remedy proceeding outside of court.

The proposed stipulation and stipulated notice of dismissal would settle the remedy proceeding. Specifically, paragraph two of the proposed stipulation provides that EPA would agree to complete ESA effects determinations by June 30, 2022, for its FIFRA registration reviews of clothianidin and thiamethoxam and, as appropriate, request initiation of any necessary ESA consultations with the Services. As provided in paragraph three of the proposed stipulation, EPA would also agree to initiate informal consultation with the Services to begin an informal dialogue between the agencies prior to EPA completing its effects determinations.

In addition, as described in paragraph one of the proposed stipulation, defendant-intervenors Syngenta, Bayer and Valent (the registrants of products containing clothianidin and thiamethoxam) have agreed to request that EPA voluntarily cancel the following 12 specific products that contain either clothianidin or thiamethoxam under section 6(f)(1) of FIFRA:

1. Adage Premier Seedcare, EPA Reg. No. 100–1450.
2. Adage Deluxe, EPA Reg. No. 100–1449.
3. Avicta Complete Corn 500, EPA Reg. No. 100–1399.
4. TMX–MXM–FDL–TBZ FS, EPA Reg. No. 100–1426.
5. Inovate Seed Protectant, EPA Reg. No. 59639–176.
6. Inovate Neutral Seed Protectant Reg. No. 59639–187.
7. Emesto Quantum, EPA Reg. No. 264–1125.
8. Flower Rose & Shrub Care III, EPA Reg No. 72155–95.
9. V10170 0.25G GL, EPA Reg. No. 59639–164.
10. Meridian 0.14G, EPA Reg. No. 100–1346.
11. Meridian 0.20G, EPA Reg. No. 100–1341.
12. Aloft GC G Insecticide, Reg. No. 59639–214.

For a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed joint stipulation and

stipulated notice of dismissal from persons who are not named as parties to the litigation in question. If so requested, EPA will also consider holding a public hearing on whether to agree to the proposed joint stipulation and stipulated notice of dismissal. EPA or the Department of Justice may withdraw or withhold consent to the proposed joint stipulation or proposed stipulated notice of dismissal if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the ESA or FIFRA. Unless EPA or the Department of Justice determines that consent should be withdrawn, the terms of the proposed stipulation and stipulated notice of dismissal will be affirmed.

II. Additional Information About Commenting on the Proposed Stipulation and Stipulated Notice of Dismissal

A. How can I get a copy of the proposed stipulated order of partial dismissal?

The official public docket for this action (identified by EPA–HQ–OGC–2018–0745) contains a copy of the proposed stipulation and proposed order of dismissal. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available on EPA's website at *https://www.epa.gov/ogc/proposed-consent-decrees-and-draft-settlement-agreements* and through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.'' It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket.

EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: December 4, 2018.

Joseph E. Cole,

Associate General Counsel.

[FR Doc. 2018–26903 Filed 12–11–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Wednesday, December 12, 2018

December 4, 2018.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 12, 2018 which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW, Washington, DC.

Because of the closure of the federal government for a National Day of Mourning for President George H.W. Bush on Wednesday, December 5, the Commission has determined that it is in the public interest to delay the onset of the sunshine period prohibition contained in Section 1.1203 of the Commission's rules, 47 CFR 1.1203. Accordingly, consistent with Section 1.1200(a) of the Commission's rules, 47 CFR 1.1200(a), the Commission has modified its rules so that the sunshine period prohibition will begin at 11:59 p.m. on Thursday, December 6, rather than at 11:59 p.m. on Wednesday, December 5.

Item No.	Bureau	Subject
1	WIRELESS TELE-COMMUNICATIONS ..	*Title:* Use of Spectrum Bands Above 24 GHz For Mobile Radio Services (GN Docket No. 14–177). *Summary:* The Commission will consider a Report and Order that would adopt service rule changes for the Upper 37 GHz (37.6–38.6 GHz), 39 GHz (38.6–40 GHz), and 47 GHz (47.2–48.2 GHz) bands, and would provide for an incentive auction mechanism that would offer contiguous blocks of spectrum in the Upper 37 GHz and 39 GHz bands and additional spectrum in the 47 GHz band.

Item No.	Bureau	Subject
2	WIRELINE COMPETITION	*Title:* Connect America Fund (WC Docket No. 10–90); ETC Annual Reports and Certifications (WC Docket No. 14–58); Establishing Just and Reasonable Rates for Local Exchange Carriers (WC Docket No. 07–135); Developing a Unified Intercarrier Compensation Regime (CC Docket No. 01–92). *Summary:* The Commission will consider a Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration. The Report and Order would offer additional funding to carriers that currently receive model-based universal service support in exchange for deploying broadband at increased speeds, provide an opportunity for legacy carriers to transition to model-based support, and authorize additional support for carriers remaining on the legacy rate-of-return support mechanism in exchange for targeting higher broadband speeds. The FNPRM would seek comment on implementing an auction mechanism for support in legacy areas that are overlapped or almost entirely overlapped by an unsubsidized competitor, and on addressing budgetary impacts as carriers transition to broadband-only lines. The Order on Reconsideration would deny three petitions for reconsideration.
3	CONSUMER & GOVERNMENTAL AFFAIRS.	*Title:* Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59). *Summary:* The Commission will consider a Second Report and Order that would create a comprehensive database to enable callers to verify whether a telephone number has been permanently disconnected, and is therefore eligible for reassignment, before calling that number, thereby helping to protect consumers with reassigned numbers from receiving unwanted robocalls.
4	WIRELESS TELE-COMMUNICATIONS	*Title:* Petitions for Declaratory Ruling on Regulatory Status of Wireless Messaging Service (WT Docket No. 08–7). *Summary:* The Commission will consider a Declaratory Ruling that would classify two forms of wireless messaging, Short Message Service (SMS) and Multimedia Messaging Service (MMS), as information services under the Communications Act, and help prevent consumers from receiving spam robotexts.
5	MEDIA	*Title:* 2018 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 (MB Docket No. 18–349). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that would initiate the 2018 Quadrennial Review of certain broadcast ownership rules.
6	MEDIA	*Title:* Amendment of Parts 0, 1, 5, 73, and 74 of the Commission's Rules Regarding Posting of Station Licenses and Related Information (MB Docket No. 18–121); Modernization of Media Regulation Initiative (MB Docket No. 17–105). *Summary:* The Commission will consider a Report and Order that would eliminate certain rules which require local posting and maintenance of broadcast licenses and related information in specific locations.
7	WIRELINE COMPETITION	*Title:* Enforcement Bureau Action Communications Marketplace Report (GN Docket No. 18–231); The State of Mobile Wireless Competition (WT Docket No. 18–203); Status of Competition in the Market for the Delivery of Video Programming (MB Docket No. 17–214); Status of Competition in the Marketplace for Delivery of Audio Programming (MB 18–227); Satellite Communications Services for the Communications Marketplace Report (IB Docket No. 18–251). *Summary:* The Commission will consider a Report that would consolidate several previously separate Commission reports into a single report on the state of the broader communications market in the United States. It would assess the state of all forms of competition in the communications marketplace and the state of deployment of communications capabilities, describe the actions taken by the Commission in the previous two years to address challenges and opportunities in the communications marketplace, and discuss the Commission's agenda for continuing to address those challenges and opportunities over the next two years.

* * * * *

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the internet. To purchase these services, call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–26798 Filed 12–11–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–ZA03

Request for Information on the FDIC's Deposit Insurance Application Process

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for information.

SUMMARY: The FDIC is seeking comment from interested parties regarding the FDIC's deposit insurance application process.

DATES: Comments must be received by February 11, 2019.

ADDRESSES: You may submit comments, identified by RIN 3064–ZA03, by any of the following methods:

- *Agency Website: http://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the Agency website.
- *Email: Comments@fdic.gov.* Include the RIN 3064–ZA03 in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW, building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Instructions: All comments received must include the agency name and RIN 3064–ZA03 for this request for information. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/*—including any personal information provided—for public inspection. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226, or by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT:

RMS Contacts: Donald Hamm, Special Advisor, (202) 898–3528, *DHamm@FDIC.gov.*

Legal Contacts: Annmarie Boyd, Counsel, (202) 898–3714, *ABoyd@FDIC.gov;* Catherine Topping, Counsel, (202) 898–3975, *CTopping@FDIC.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FDIC is responsible for maintaining stability and public confidence in the nation's financial system by insuring deposits, examining and supervising financial institutions for safety and soundness and consumer protection, making large and complex financial institutions resolvable, and managing receiverships. As part of this mission, the FDIC grants deposit insurance to newly formed institutions and to operating institutions that are not currently insured.

Section 5 of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1815(a), requires any proposed depository institution seeking federal deposit insurance to file an application with the FDIC. In every case, the FDIC's review considers the statutory factors enumerated in Section 6 of the FDI Act, 12 U.S.C. 1816:

- The institution's financial history and condition,
- The adequacy of the institution's capital structure,
- The institution's future earnings prospects,
- The general character and fitness of the management of the institution,
- The risk presented by the institution to the Deposit Insurance Fund,
- The convenience and needs of the community to be served by the institution, and
- Whether the institution's corporate powers are consistent with the purposes of the FDI Act.

In general, the FDIC applies the same processes to the review of each deposit insurance application. However, because applications present a wide range of structures, strategies, and business models, each review focuses on the facts and circumstances presented in the application.

Overview of Request for Information

Within the context of the existing statutory framework, the FDIC is seeking comments regarding the deposit insurance application process, including with respect to the transparency and efficiency of the process, and any unnecessary burdens that have become a part of the process. The FDIC encourages comments from all interested members of the public, including but not limited to insured depository institutions, other financial institutions or companies, individual depositors and consumers, consumer groups, and other interested stakeholders.

Summary of the Deposit Insurance Application Process

The FDIC follows an established review process that is applied to all types of deposit insurance applications in order to inform the public and assure the fair treatment of all applicants. In broad terms, the deposit insurance application process includes pre-filing activities, application submission, and the FDIC's application review and processing.

The primary objective of the review process is to consider whether the proposed institution satisfies the statutory requirements. In general, deposit insurance will be granted if the FDIC is able to find favorably on each of the statutory factors, plus the considerations required by the National Historic Preservation Act and the National Environmental Policy Act.

The pre-filing activities generally include the earliest steps in a proposed institution's formation. These steps primarily involve identifying organizers, directors, and key officers; developing the business plan; determining the appropriate amount of capital to be raised; and engaging in one or more pre-filing meetings with staff from the FDIC and other relevant agencies. The FDIC also announced that organizers may obtain the FDIC's feedback on a draft deposit insurance proposal during the pre-filing period.

Following submission of an application, the FDIC will conduct an initial review to determine whether the application is substantially complete. If the application is substantially complete, the FDIC will accept the application for processing and, in coordination with the other relevant state and federal agencies, complete a detailed review of the application that includes a field investigation.

Depending on the application's characteristics and the findings with regard to the statutory factors, authority to act may reside at the Regional Office level, or may transfer to the FDIC's Washington Office or Board of Directors. Although the FDIC's processing time will vary depending on the unique characteristics of each proposal, the FDIC strives to act on applications within four months after being accepted as substantially complete.

The FDIC has provided a number of resources, accessible through the FDIC's website, to aid organizers and other interested parties in understanding the application process. A list of these resources can be found in Appendix A.[1]

Request for Comment

The FDIC seeks comments from interested parties on all aspects of the deposit insurance application process, including guidance and other issuances, the steps in the application process, and

[1] The FDIC provides resources related to applications for deposit insurance on its public website. See *https://www.fdic.gov/regulations/applications/depositinsurance/index.html.*

communications with applicants, other interested parties, and the general public. In addition to any general comments, the FDIC invites comments in response to the more specific topics and questions presented below. We encourage commenters to be as specific as possible.

1. What steps, if any, can the FDIC take to improve the de novo application process?

2. Are there any specific aspects or components of the application process that particularly discourage potential applicants from initiating or completing the application process?

3. Are there ways the FDIC could or should update or supplement existing resources to clarify expectations and promote a more transparent application process? If so, please provide details and support.

4. Are there any aspects of the pre-filing process, including with respect to the newly announced process regarding draft deposit insurance proposals, that could be modified or enhanced to further clarify expectations or processes for prospective applicants and improve applicants' ability to submit a substantially complete application?

5. How effective is the application form and its related instructions? Could any elements of the form or instructions be modified or enhanced to improve applicants' ability to submit a substantially complete application?

6. Are there any aspects of the field investigation process that could be improved to better facilitate completion of the application process?

7. In what ways could or should the FDIC modify the application process for proposed traditional community banks? How would any suggested changes impact the evaluation of the statutory factors?

8. In what ways could or should the FDIC modify the application process for proposed institutions that are not traditional community banks? How would any suggested changes impact the evaluation of the statutory factors?

9. Are there ways the FDIC could or should tailor its evaluation of applications from proposed institutions that are not traditional community banks, consistent with the statutory factors as described in the FDIC Statement of Policy on Applications for Deposit Insurance (SOP)? If so, please explain.

10. Are there ways the FDIC could or should support the continuing evolution of emerging technology and fintech companies as part of its application review process? Are there particular risks associated with any such proposals, and, if so, are there ways such risks could or should be mitigated?

11. Are the FDIC's expectations (as provided by the FDIC resources identified in this RFI) regarding capital adequacy and liquidity/funding for prospective applicants sufficiently clear and understandable? If not, what additional information or clarifications could the FDIC provide?

12. Are there legal, regulatory, economic, technological, or other factors separate from the application process that discourage potential applicants from submitting applications for deposit insurance that the FDIC should be aware of? If so, are there steps the FDIC could or should take to mitigate the impact of such factors?

13. Are there any other suggestions that the FDIC should consider for improving the effectiveness, efficiency, or transparency of the application process, or for addressing any other interests or concerns of stakeholders relative to the application process?

Appendix A—Resources

The following resources are accessible through the FDIC's public website (*https://www.fdic.gov/regulations/applications/resources/*). The resources aid organizers and other interested parties in understanding the application process.

- Part 303 of the FDIC Rules and Regulations, which outlines procedures for the submission and review of applications, including applications for deposit insurance.
- The Interagency Charter and Federal Deposit Insurance Application Form, which requests the information the chartering authority and FDIC need to evaluate the application. The application form provides general instructions, specific information fields, supplemental guidelines for business plans, and a template for financial schedules.
- The SOP, which informs the process by which FDIC staff evaluate the statutory factors described above.
- Questions and answers related to the SOP, issued on November 20, 2014, and on April 6, 2016, to help clarify expectations for applicants in developing deposit insurance proposals.
- The *Deposit Insurance Applications—A Handbook for Organizers of De Novo Institutions* (Handbook), which was issued for public comment on December 22, 2016, and issued in final form on May 1, 2017. The Handbook is designed to help organizers become familiar with the deposit insurance application process and the path to obtaining deposit insurance.
- The *Deposit Insurance Applications Procedures Manual* (Manual) was issued for public comment on July 10, 2017, and provides guidance for FDIC staff in the review and processing of deposit insurance applications. The Manual was issued in final form on November 1, 2018.

Dated at Washington, DC, on December 6, 2018.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018–26811 Filed 12–11–18; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012274–001.

Agreement Name: OVSA/PIL Space Charter and Cooperative Working Agreement.

Parties: Hamburg Sud; Hapag Lloyd AG; CMA CGM S.A. and ANL Singapore Pte Ltd. (acting as a single party); and Pacific International Lines (Pte) Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment deletes Hamburg Sud and replaces it with Maersk Line A/S, and deletes CMA CCM S.A. as a party to the Agreement. The amendment also revises the amount of space to be chartered, and adds operational and legal compliance provisions.

Proposed Effective Date: 1/18/2019.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/133.

Agreement No.: 201272–001.

Agreement Name: Kyowa/CNCo Pacific-Asia Slot Charter Agreement.

Parties: Kyowa Shipping Co., Ltd. and The China Navigation Co. Pte. Ltd.

Filing Party: Conte Cicala; Clyde & Co. US LLP.

Synopsis: The amendment revises the geographic scope of the Agreement.

Proposed Effective Date: 1/18/2019.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/16283.

Agreement No.: 201275–001.

Agreement Name: NBP/CNCo Pacific-Asia Slot Charter Agreement.

Parties: NYK Bulk & Project Carriers Ltd. and The China Navigation Co. Pte. Ltd.

Filing Party: Conte Cicala; Clyde & Co. US LLP.

Synopsis: The amendment revises the geographic scope of the Agreement.

Proposed Effective Date: 1/18/2019

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/20311.

Dated: December 7, 2018.

Rachel Dickon,

Secretary.

[FR Doc. 2018–26883 Filed 12–11–18; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Financial Statements for Holding Companies (FR Y–9 family of reports) (OMB No. 7100–0128), the Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y–7N family of reports) (OMB No. 7100–0125), the Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates (FR Y–8) (OMB No. 7100–0126), the Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies (FR Y–11 family of reports) (OMB No. 7100–0244), the Domestic Finance Company Report of Consolidated Assets and Liabilities (FR 2248) (OMB No. 7100–0005), the Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314 family of reports) (OMB No. 7100–0073), the Quarterly Savings and Loan Holding Company Report (FR 2320) (OMB No. 7100–0345), the Weekly Report of Selected Assets and Liabilities of Domestically Chartered Commercial Banks and U.S. Branches and Agencies of Foreign Banks (FR 2644) (OMB No. 7100–0075), and the Consolidated Report of Condition and Income for Edge and Agreement Corporations (FR 2886b) (OMB No. 7100–0086).

DATES: Comments must be submitted on or before February 11, 2019.

ADDRESSES: You may submit comments, identified by *FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, FR Y–9CS, FR Y–7, FR Y–7N, FR Y–7Q, FR Y–8, FR Y–11, FR Y–11S, FR 2248, FR 2314, FR 2320, FR 2644, or FR 2886b* by any of the following methods:

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

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW), Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments. Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Federal Reserve Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions; including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

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

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

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

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Reports

1. Report title: Financial Statements for Holding Companies.

Agency form number: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly, semiannually, and annually.

Reporters: Bank holding companies, savings and loan holding companies, securities holding companies, and U.S.

Intermediate Holding Companies (collectively, holding companies (HCs)).

Estimated number of respondents: FR Y–9C (non-advanced approaches holding companies): 292; FR Y–9C (advanced approached holding companies): 18; FR Y–9LP: 338; FR Y–9SP: 4,238; FR Y–9ES: 82; FR Y–9CS: 236.

Estimated average hours per response: FR Y–9C (non-advanced approaches holding companies): 46.34 hours; FR Y–9C (advanced approached holding companies HCs): 47.59 hours; FR Y–9LP: 5.27 hours; FR Y–9SP: 5.40 hours; FR Y–9ES: 0.50 hours; FR Y–9CS: 0.50 hours.

Estimated annual burden hours: FR Y–9C (non-advanced approaches holding companies): 54,125 hours; FR Y–9C (advanced approached holding companies): 3,426 hours; FR Y–9LP: 7,125 hours; FR Y–9SP: 45,770; FR Y–9ES: 41 hours; FR Y–9CS: 472 hours.

General description of report: The FR Y–9C serves as standardized financial statements for the consolidated holding company. The FR Y–9 family of reporting forms continues to be the primary source of financial data on HCs that examiners rely on between on-site inspections. Financial data from these reporting forms is used to detect emerging financial problems, review performance, conduct pre-inspection analysis, monitor and evaluate capital adequacy, evaluate HC mergers and acquisitions, and analyze an HC's overall financial condition to ensure the safety and soundness of its operations. The Board requires HCs to provide standardized financial statements to fulfill the Board's statutory obligation to supervise these organizations. HCs file the FRY–9C on a quarterly basis, FR Y–9LP quarterly, and the FR Y–9SP semiannually, the FR Y–9ES annually, and the FR Y–9CS on a schedule that is determined when this supplement is used.

2. *Report title:* The Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, and the Capital and Asset Report of Foreign Banking Organizations.

Agency form number: FR Y–7N, FR Y–7NS, and FR Y–7Q.

OMB control number: 7100–0125.

Frequency: Quarterly and annually.

Reporters: Foreign banking organizations (FBOs).

Number of respondents: FR Y–7N (quarterly): 35; FR Y–7N (annual): 19; FR Y–7NS: 22; FR Y–7Q (quarterly): 130; FR Y–7Q (annual): 29.

Estimated average hours per response: FR Y–7N (quarterly): 7.6 hours; FR Y–7N (annual): 7.6 hours; FR Y–7NS: 1 hour; FR Y–7Q (quarterly): 3 hours; FR Y–7Q (annual): 1.5 hours.

Estimated annual reporting hours: FR Y–7N (quarterly): 1,064 hours; FR Y–7N (annual): 144 hours; FR Y–7NS: 22 hours; FR Y–7Q (quarterly): 1,560 hours; FR Y–7Q (annual): 44 hours.

General description of report: The FR Y–7N and the FR Y–7NS are used to assess an FBO's ability to be a continuing source of strength to its U.S. operations and to determine compliance with U.S. laws and regulations. FBOs file the FR Y–7N quarterly or annually or the FR Y–7NS annually predominantly based on asset size thresholds. The FR Y–7Q is used to assess consolidated regulatory capital and asset information from all FBOs. The FR Y–7Q is filed quarterly by FBOs that have effectively elected to become or be treated as a U.S. financial holding company (FHC) and by FBOs that have total consolidated assets of $50 billion or more, regardless of FHC status. All other FBOs file the FR Y–7Q annually.

3. Report title: Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates.

Agency form number: FR Y–8.

OMB control number: 7100–0126.

Frequency: Quarterly.

Estimated number of respondents: 933.

Estimated average hours per response: 7.8 hours.

Estimated annual burden hours: 29,110 hours.

General description of report: The FR Y–8 collects information on covered transactions between an insured depository institution and its affiliates that are subject to the quantitative limits and requirements of section 23A of the Federal Reserve Act and the Board's Regulation W (12 CFR Pt. 223). The FR Y–8 is filed quarterly by all U.S. top-tier bank holding companies (BHCs) and savings and loan holding companies (SLHCs), and by FBOs that directly own or control a U.S. subsidiary insured depository institution. If an FBO indirectly controls a U.S. insured depository institution through a U.S. holding company, the U.S. holding company must file the FR Y–8. A respondent must file a separate report for each U.S. insured depository institution it controls. The primary purpose of the data is to enhance the Board's ability to monitor the credit exposure of insured depository institutions to their affiliates and to ensure that insured depository institutions are in compliance with section 23A of the Federal Reserve Act and Regulation W. Section 23A of the Federal Reserve Act limits an insured depository institution's exposure to affiliated entities and helps to protect against the expansion of the federal safety net to uninsured entities.

4. Report title: Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies and the Abbreviated Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies.

Agency form number: FR Y–11 and FR Y–11S.

OMB control number: 7100–0244.

Frequency: Quarterly and annually.

Reporters: Domestic bank holding companies, savings and loan holding companies, securities holding companies, and intermediate holding companies (collectively, ''holding companies'').

Number of respondents: FR Y–11 (quarterly): 445; FR Y–11 (annual): 189; FR Y–11S: 273.

Estimated average hours per response: FR Y–11 (quarterly): 7.6; FR Y–11 (annual): 7.6; FR Y–11S: 1.

Estimated annual reporting hours: FR Y–11 (quarterly): 13,528 hours; FR Y–11 (annual): 1,436 hours; FR Y–11S: 273 hours.

General description of report: The FR Y–11 family of reports collects financial information for individual U.S. nonbank subsidiaries of domestic holding companies, which is essential for monitoring the subsidiaries' potential impact on the condition of the holding company or its subsidiary banks. Holding companies file the FR Y–11 on a quarterly or annual basis or the FR Y–11S on an annual basis, predominantly based on whether the organization meets certain asset size thresholds.

5. *Report title:* Domestic Finance Company Report of Consolidated Assets and Liabilities.

Agency form number: FR 2248.

OMB control number. 7100–0005.

Frequency: Monthly, Quarterly and Semi-annually.

Reporters: Domestic finance companies and mortgage companies.

Estimated number of respondents: 150.

Estimated average hours per response: Monthly: .33 hours; Quarterly: .50 hours; Addendum: 17 hours.

Estimated annual burden hours: Monthly, 400 hours; Quarterly, 300 hours; Addendum, 50 hours.

General description of report: The FR 2248 collects information on amounts outstanding in major categories of consumer and business credit held by finance companies and on major short-term liabilities of the finance

companies. For quarter-end months (March, June, September, and December) the report also collects information on other assets and liabilities outstanding as well as information on capital accounts in order to provide a full balance sheet. In addition, a supplemental section collects data about assets that have been pooled by finance companies and sold to third parties that issue securities based on those assets. The supplemental section is organized in the same four categories of credit (consumer, real estate, business, and lease-related). The special addendum section may be used if the need arises for the collection of timely information on questions of immediate concern to the Board. When necessary, respondents would be asked no more than twice a year to provide answers to a limited number of relevant questions, which would be distributed in advance to ease burden and which would take, on average, ten minutes to complete. This addendum provides the Board a valuable source of information regarding timely topics and events in financial markets.

6. Report title: Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations and the Abbreviated Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations.

Agency form number: FR 2314 and FR 2314S.

OMB control number: 7100–0073.

Frequency: Quarterly and annually.

Reporters: U.S. state member banks, BHCs, SLHCs, intermediate holding companies (IHCs), and Edge or agreement corporations.

Number of respondents: FR 2314 (quarterly): 439; FR 2314 (annual): 239; FR 2314S: 300.

Estimated average hours per response: FR 2314 (quarterly): 7.2 hours; FR 2314 (annual): 7.2 hours; FR 2314S: 1 hour.

Estimated annual reporting hours: FR 2314 (quarterly): 12,643 hours; FR 2314 (annual): 1,768 hours; FR 2314S: 300 hours.

General description of report: The FR 2314 family of reports is the only source of comprehensive and systematic data on the assets, liabilities, and earnings of the foreign nonbank subsidiaries of U.S. banking organizations, and the data are used to monitor the growth, profitability, and activities of these foreign companies. The data help the Board identify present and potential problems of these companies, monitor their activities in specific countries, and develop a better understanding of activities within the industry and within specific institutions. Parent organizations (state member banks (SMBs), Edge and agreement corporations, or holding companies) file the FR 2314 on a quarterly or annual basis, or the FR 2314S on an annual basis, predominantly based on whether the organization meets certain asset size thresholds.

7. Agency form number: FR 2320.

OMB control number: 7100–0345.

Frequency: Quarterly.

Reporters: SLHCs that are currently exempt from filing other Board regulatory reports.

Estimated number of respondents: 13.

Estimated average hours per response: 2.5 hours.

Estimated annual burden hours: 130 hours.

General description of report: The FR 2320 collects select parent only and consolidated balance sheet and income statement financial data and organizational structure data from SLHCs that are currently exempt from filing other Board regulatory reports (exempt SLHCs). The FR 2320 is used by the Board to analyze the overall financial condition of exempt SLHCs to ensure safe and sound operations. These data assist the Board in the evaluation of a diversified holding company and in determining whether an institution is in compliance with applicable laws and regulations.

8. Report title: Weekly Report of Selected Assets and Liabilities of Domestically Chartered Commercial Banks and U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2644.

OMB control number: 7100–0075.

Respondents: Domestically chartered commercial banks and U.S. branches and agencies of foreign banks.

Estimated number of respondents: 875.

Estimated average hours per response: 2.35 hours.

Estimated annual burden hours: 106,925 hours.

General description of report: The FR 2644 is a balance sheet report that is collected as of each Wednesday from an authorized stratified sample of 875 domestically chartered commercial banks and U.S. branches and agencies of foreign banks. The FR 2644 is the only source of high-frequency data used in the analysis of current banking developments. The FR 2644 collects sample data that are used to estimate universe levels using data from the quarterly commercial bank Consolidated Reports of Condition and Income (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100–0036) and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB No. 7100–0032) (Call Reports). Data from the FR 2644, together with data from other sources, are used to construct weekly estimates of bank credit, balance sheet data for the U.S. banking industry, sources and uses of banks' funds, and to analyze current banking and monetary developments. The Board publishes the data in aggregate form in the weekly H.8 statistical release, Assets and Liabilities of Commercial Banks in the United States, which is followed closely by other government agencies, the banking industry, the financial press, and other users. The H.8 release provides a balance sheet for the banking industry as a whole and data disaggregated by its large domestic, small domestic, and foreign-related bank components.

9. Report title: Consolidated Report of Condition and Income for Edge and Agreement Corporations.

Agency form number: FR 2886b.

OMB control number: 7100–0086.

Frequency: Quarterly.

Reporters: Edge and agreement corporations and investment (nonbanking) Edge and agreement corporations.

Number of respondents: Banking: Edge and agreement corporations (quarterly): 9; Banking: Edge and agreement corporations (annually): 1; Investment: Edge and agreement corporations (quarterly): 21; Investment: Edge and agreement corporations (annually): 7.

Estimated average hours per response: Banking: Edge and agreement corporations (quarterly): 15.77; Banking: Edge and agreement corporations (annually): 15.87; Investment: Edge and agreement corporations (quarterly): 11.81; Investment: Edge and agreement corporations (annually): 10.82

Estimated annual reporting hours: Banking: Edge and agreement corporations (quarterly): 568; Banking: Edge and agreement corporations (annually): 16; Investment: Edge and agreement corporations (quarterly): 922; Investment: Edge and agreement corporations (annually): 76.

General description of report: The FR 2886b reporting form is filed quarterly and annually by banking Edge and agreement corporations and investment (nonbanking) Edge and agreement corporations (collectively, ''Edges or Edge corporations''). The mandatory FR 2886b comprises an income statement with two schedules reconciling changes in capital and reserve accounts and a balance sheet with 11 supporting schedules. Other than examination reports, it provides the only financial data available for these corporations. The Board is solely responsible for authorizing, supervising, and assigning

ratings to Edges. The Board uses the data collected on the FR 2886b to identify present and potential problems and monitor and develop a better understanding of activities within the industry.

Proposed Revisions:

The Board proposes to (1) implement changes to address the revised accounting standards for the adoption of the current expected credit loss (CECL) methodology across all of the reports, (2) extend for three years through the normal delegated review process certain revisions to the FR Y–9C that the Board previously approved on a temporary basis [1] in order to implement changes consistent with Section 214 and Section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) pertaining to the risk-weighting of HVCRE exposures and the treatment of reciprocal deposits, (3) clarify reporting of unrealized holding gains and losses on equity securities on the FR Y–9C report, and (4) make several revisions to the FR 2886b report, including updating references to applicable capital requirements, revising the eligibility criteria for reporting the trading schedule and implement changes pertaining to the accounting treatment of equity securities.

The proposed reporting changes related to CECL are tied to the revisions proposed in the CECL notice of proposed rulemaking (the CECL NPR) [2] by the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the agencies) to revise their regulatory capital rules related to the implementation and capital transition for CECL and to the corresponding proposed CECL revisions to the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100–0036).[3] To the extent the agencies alter proposed elements of the CECL NPR or the Call Report CECL proposal, the Board would make any necessary corresponding adjustments to the proposed CECL reporting revisions for the reports outlined in this notice prior to final approval of this proposal.

The effective dates for adopting CECL vary depending on whether a firm is a public business entity (PBE), a Securities and Exchange Commission (SEC) report filer, or an early adopter. For institutions that are PBEs and also are SEC filers, as both terms are defined in U.S. generally accepted accounting principles (U.S. GAAP), the new credit losses standard is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. For a PBE that is not an SEC filer, the credit losses standard is effective for fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. For an institution that is not a PBE, the credit losses standard is effective for fiscal years beginning after December 15, 2020, and for interim period financial statements for fiscal years beginning after December 15, 2021. For regulatory reporting purposes, early application of the new credit losses standard will be permitted for all institutions for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. See Appendix A for more details surrounding CECL adoption by entity type, as well as the table summarizing the possible effective dates.[4]

Due to the different effective dates for ASU 2016–13, the period over which institutions may be implementing this ASU ranges from the first quarter of 2019 through the fourth quarter of 2022. December 31, 2022, will be the first quarter-end of which all institutions would be required to prepare their reports in accordance with ASU 2016–13. It is expected that the majority of institutions will implement the standard in the first or fourth quarter of 2021. Schedule titles or specific data item captions resulting from the change in nomenclature upon the adoption of CECL generally would not be reflected in the reporting forms until March 31, 2021, as outlined in the following schedule-by-schedule descriptions of the proposed changes to the affected reporting schedules.

Because of the staggered adoption dates, the Board proposes to implement the CECL revisions in stages. First, the Board would revise the reporting form and instructions, add data items and schedules for certain impacted reports effective for March 31, 2019. The changes would include guidance stating how institutions that have adopted ASU–2016–13 would report the data items related to the ''provision for credit losses'' and ''allowance for credit losses, as applicable. Next, for the transition period from March 31, 2021, through December 31, 2022, the reporting form and instructions for each impacted schedule title or data item would be updated to include guidance stating how institutions that have not adopted ASU 2016–13 would report the ''provision for loan and lease losses'' or the ''allowance for loan and lease losses,'' as applicable. The table below summarizes the effective dates for the 2019 and 2021 proposed CECL revisions.

Report	Add items, add, footnotes and or revise instructions	Revise item captions
FR 2644	03/27/2019	01/06/2021
FR 2248	03/31/2019	01/31/2021
FR 2320	03/31/2019	.....
FR Y–8	03/31/2019	.....
FR Y–9C	03/31/2019	03/31/2021
FR Y–9LP	03/31/2019	03/31/2021
FR 2314/S	03/31/2019	03/31/2021
FR Y–11/S	03/31/2019	03/31/2021
FR 2886b	03/31/2019	03/31/2021
FR Y–7N/NS	03/31/2019	03/31/2021
FR Y–9SP	06/30/2019	06/30/2021

[1] See 83 FR 48990 (September 28, 2018).

[2] See 83 FR 22312 (May 14, 2018).

[3] See 83 FR 49160 (September 28, 2018).

[4] See CECL FAQs, question 36, for examples of how and when institutions with non-calendar fiscal years must incorporate the new credit losses standard into their regulatory reports. The CECL FAQs and a related link to the joint statement can be found on the Board's website: *https://www.federalreserve.gov/supervisionreg/srletters/sr1708a1.pdf.*

The proposed non-CECL related revisions to the FR Y–9C and FR 2886b reports would be effective for the March 31, 2019, report date.

1. Proposed CECL Revisions—ASU 2016–13

In June 2016, the Financial Accounting Standard Board (FASB) issued ASU 2016–13, which introduced the CECL methodology for estimating allowances for credit losses and added Topic 326, Credit Losses, to the Accounting Standards Codification (ASC). The new credit losses standard changes several aspects of existing U.S. GAAP, such as introducing a new credit loss methodology, reducing the number of credit impairment models, replacing the concept of purchased credit-impaired (PCI) assets with that of purchased credit-deteriorated (PCD) financial assets, and changing the impairment treatment for available-for-sale (AFS) securities. See Appendix B for more details on each of these U.S. GAAP changes as a result of ASU 2016–13.

The Board is proposing revisions to all regulatory reports listed in this document in response to ASU 2016–13 in order to align the information reported with the new standard as it relates to the credit losses for loans and leases, including off-balance sheet credit exposures. These revisions address the broadening of the scope of financial assets for which an allowance for credit losses assessment must be established and maintained, along with the elimination of the existing model for PCI assets. The revisions for the FR Y–9C are described in detail, mostly on a schedule-by-schedule basis in the Detailed discussion of Proposed Revisions. The CECL revisions to all the other reports will mirror the revisions to the FR Y–9C, where applicable.

CECL is applicable to all financial instruments carried at amortized cost (including loans held for investment (HFI) and held to maturity (HTM) debt securities as well as trade and reinsurance receivables and receivables that relate to repurchase agreements and securities lending agreements), net investments in leases, and off-balance-sheet credit exposures not accounted for as insurance, including loan commitments, standby letters of credit, and financial guarantees. Under ASU 2016–13, institutions will record credit losses through an allowance for credit losses for AFS debt securities rather than as a write-down through earnings for other-than-temporary impairment (OTTI). The broader scope of financial assets for which allowances must be estimated under ASU 2016–13 results in the proposed reporting of additional allowances, and related charge-off and recovery data and proposed changes to the terminology used to describe allowances for credit losses. To address the broader scope of assets that will have allowances under ASU 2016–13, the Board proposes to change the allowance nomenclature to consistently use ''allowance for credit losses'' followed by the specific asset type as relevant, *e.g.,* ''allowance for credit losses on loans and leases'' and ''allowance for credit losses on HTM debt securities.

By broadening the scope of financial assets for which the need for allowances for credit losses must be assessed to include HTM and AFS debt securities, the new standard eliminates the existing OTTI model for such securities. Subsequent to a firm's adoption of ASU 2016–13, the concept of OTTI will no longer be relevant and information on OTTI will no longer be captured.

The new standard also eliminates the separate impairment model for PCI loans and debt securities. Under CECL, credit losses on PCD financial assets are subject to the same credit loss measurement standard as all other financial assets carried at amortized cost. Subsequent to an institution's adoption of ASU 2016–13, information on PCI loans will no longer be captured.

While the standard generally does not change the scope of off-balance sheet credit exposures subject to an allowance for credit loss assessment, the standard does change the period over which the firm should estimate expected credit losses. For off-balance sheet credit exposures, a firm will estimate expected credit losses over the contractual period in which they are exposed to credit risk. For the period of exposure, the estimate of expected credit losses should consider both the likelihood that funding will occur and the amount expected to be funded over the estimated remaining life of the commitment or other off-balance sheet exposure. In contrast to the existing practices, the FASB decided that no credit losses should be recognized for off-balance sheet credit exposures that are unconditionally cancellable by the issuer. The exclusion of unconditionally cancellable commitments from the allowance for credit losses assessment on off-balance sheet credit exposures requires clarification to applicable reporting instructions.

As of the new accounting standard's effective date, institutions will apply the standard based on the characteristics of financial assets as follows:

• *Financial assets carried at amortized cost (that are not PCD assets) and net investments in leases:* A cumulative-effect adjustment for the changes in the allowances for credit losses will be recognized in retained earnings, net of applicable taxes, as of the beginning of the first reporting period in which the new standard is adopted. The cumulative-effect adjustment to retained earnings should be reported in FR Y–9C Schedule HI–A, item 2, ''Cumulative effect of changes in accounting principles and corrections of material accounting errors,'' and explained in Notes to the Income Statement for which a preprinted caption, ''Adoption of Current Expected Credit Losses Methodology—ASC Topic 326,'' will be provided in the text field for this item.

• *Purchased credit-deteriorated financial assets:* Financial assets classified as PCI assets prior to the effective date of the new standard will be classified as PCD assets as of the effective date. For all financial assets designated as PCD assets as of the effective date, an institution will be required to gross up the balance sheet amount of the financial asset by the amount of its allowance for expected credit losses as of the effective date, resulting in an adjustment to the amortized cost basis of the asset to reflect the addition of the allowance for credit losses as of that date. For loans held for investment and HTM debt securities, this allowance gross-up as of the effective date of ASU 2016–13 should be reported in the appropriate columns of Schedule HI–B, Part II, item 6, ''Adjustments,'' and should be explained in the Notes to the Income Statement for which a preprinted caption, ''Effect of adoption of current expected credit losses methodology on allowances for credit losses on loans and leases held for investment and held-to-maturity debt securities,'' will be provided in the text field for this item. Subsequent changes in the allowance for credit losses on PCD financial assets will be recognized by charges or credits to earnings through the provision for credit losses. The institution will continue to accrete the noncredit discount or premium to interest income based on the effective interest rate on the PCD financial assets determined after the gross-up for the CECL allowance as of the effective date of adoption, except for PCD financial assists in nonaccrual status.

• *AFS and HTM debt securities:* A debt security on which OTTI had been recognized prior to the effective date of the new standard will transition to the new guidance prospectively (*i.e.,* with no change in the amortized cost basis of the security). The effective interest rate

on such a debt security before the adoption date will be retained and locked in. Amounts previously recognized in accumulated other comprehensive income related to cash flow improvements will continue to be accreted to interest income over the remaining life of the debt security on a level-yield basis. Recoveries of amounts previously written off relating to improvements in cash flows after the date of adoption will be recognized in income in the period received.

Schedule HI

To address the broader scope of financial assets for which a provision will be calculated under ASU 2016–13, the Board proposes to revise Schedule HI, item 4, from ''Provision for loan and lease losses'' to ''Provision for Credit losses on financial assets,'' effective March 31, 2021. To address the elimination of the concept of OTTI by ASU 2016–13, effective December 31, 2022, the Board proposes to remove Schedule HI, Memorandum item 17, ''Other-than-temporary impairment losses on held-to-maturity and available-for-sale debt securities recognized in earnings.'' Under the new standard, institutions will recognize credit losses on HTM and AFS debt securities through an allowance for credit losses, and the Board proposes to collect information on the allowance for credit losses on these two categories of debt securities in Schedule HI–B as discussed below. From March 31, 2019, through September 30, 2022, the report form and instructions for Memorandum item 17 will include guidance stating that Memorandum item 17 is to be completed only by institutions that have not adopted ASU 2016–13.

Schedule HI–B

To address the broader scope of financial assets for which allowances will be calculated under ASU 2016–13 and for which charge-offs and recoveries will be applicable, the Board proposes to change the title of Schedule HI–B effective March 31, 2021, from ''Charge-offs and Recoveries on Loans and Leases and Changes in Allowance for Loan and Lease Losses'' to ''Charge-offs and Recoveries on Loans and Leases and Changes in Allowance for Credit Losses.''

In addition, effective March 31, 2021, to address the change in allowance nomenclature arising from the broader scope of allowances under ASU 2016–13, the Board proposes to revise Schedule HI–B, Part I, Memorandum item 4, from ''Uncollectible retail credit card fees and finance charges reversed against income (*i.e.,* not included in charge-offs against the allowance for loan and lease losses)'' to ''Uncollectible retail credit card fees and finance charges reversed against income (*i.e.,* not included in charge-offs against the allowance for credit losses on loans and leases).''

To further address the broader scope of financial assets for which allowances will be calculated under ASU 2016–13, the Board proposes to revise Schedule HI–B, Part II, to also include changes in the allowances for credit losses on HTM and AFS debt securities. Effective March 31, 2019, the Board proposes to change the title of Schedule HI–B, Part II, from ''Changes in Allowance for Loan and Lease Losses'' to ''Changes in Allowances for Credit Losses.''

In addition, effective March 31, 2019, Schedule HI–B, Part II, would be expanded from one column to a table with three columns titled:

- Column A: Loans and leases held for investment
- Column B: Held-to-maturity debt securities
- Column C: Available-for-sale debt securities

From March 31, 2019, through September 30, 2022, the reporting form and the instructions for Schedule HI–B, Part II, would include guidance stating that Columns B and C are to be completed only by institutions that have adopted ASU 2016–13.

In addition, effective March 31, 2019, Schedule HI–B, Part II, item 4, will be revised from ''Less: Write-downs arising from transfers of loans to a held-for-sale account'' to ''Less: Write-downs arising from transfers of financial assets'' to capture changes in allowances from transfers of loans from held-to-investment to held-for-sale and from transfers of securities between categories, *e.g.,* from the AFS to the HTM category. Further, effective March 31, 2019, Schedule HI–B, Part II, item 5, will be revised from ''Provision for loan and lease losses'' to ''Provision for credit losses'' to capture the broader scope of financial assets included in the schedule.

Effective March 31, 2019, or the first quarter in which a holding company reports its adoption of ASU 2016–13, whichever is later, Schedule HI–B, Part II, item 6, ''Adjustments,'' would be used to capture the initial impact of applying ASU 2016–13 as of the effective date in the period of adoption as well as the initial allowance gross-up for PCD assets as of the effective date. Item 6 also would be used to report the allowance gross-up upon the acquisition of PCD assets on or after the effective date. These adjustments would be explained in items for which preprinted captions would be provided in the text fields on the Notes to the Income Statement, as proposed below.

In the memorandum section of Schedule HI–B, Part II, to address the change in allowance nomenclature arising from the broader scope of allowances under ASU 2016–13 the Board proposes to revise the caption for Memorandum item 3, effective March 31, 2021, from ''Amount of allowance for loan and lease losses attributable to retail credit card fees and finance charges'' to ''Amount of allowance for credit losses on loans and leases attributable to retail credit card fees and finance charges.'' Also, in the memorandum section of Schedule HI–B, Part II, effective December 31, 2022, the Board proposes to remove existing Memorandum item 4, ''Amount of allowance for post-acquisition credit losses on purchased credit impaired loans accounted for in accordance with AICPA Statement of Position 03–3'' as ASU 2016–13 eliminates the concept of PCI loans and the separate credit impairment model for such loans. From March 31, 2019, through September 30, 2022, the reporting form and instructions for Schedule HI–B, Part II, Memorandum item 4, would specify that this item should be completed only by institutions that have not yet adopted ASU 2016–13.

Given that the scope of ASU 2016–13 is broader than the three financial asset types proposed to be included in the table in Schedule HI–B, Part II, effective March 31, 2019, the Board proposes to also add new Memorandum item 5, ''Provisions for credit losses on other financial assets carried at amortized cost,'' and Memorandum item 6, ''Allowance for credit losses on other financial assets carried at amortized cost,'' to Schedule HI–B, Part II, at the same time. For purposes of Memorandum items 5 and 6, other financial assets would include all financial assets measured at amortized cost other than loans and leases held for investment and HTM debt securities. From March 31, 2019, through September 30, 2022, the reporting form and instructions for Schedule HI–B, Part II, would include guidance stating that Memorandum items 5 and 6 are to be completed only by institutions that have adopted ASU 2016–13.

Schedule HI–C

Schedule HI–C currently requests allowance information for specific categories of loans held for investment that is disaggregated on the basis of three separate credit impairment models, and the amounts of the related

recorded investments, from institutions with $1 billion or more in total assets. ASU 2016–13 eliminates these separate credit impairment models and replaces them with CECL for all financial assets measured at amortized cost. As a result of this change, effective March 31, 2021, the Board proposes to change the title of Schedule HI–C from ''Disaggregated Data on the Allowance for Loan and Lease Losses'' to ''Disaggregated Data on Allowances for Credit Losses.''

To capture disaggregated data on allowances for credit losses from institutions that have adopted ASU 2016–13, the Board proposes to create Schedule HI–C, Part II, ''Disaggregated Data on Allowances for Credit Losses,'' effective March 31, 2019. The existing table in Schedule HI–C, which includes items 1 through 6 and columns A through F, would be renamed ''Part I. Disaggregated Data on the Allowance for Loan and Lease Losses.'' From March 31, 2019, through September 30, 2022, the reporting form and instructions for Schedule HI–C, Part I, would include guidance stating that only those institutions that have not adopted ASU 2016–13 should complete Schedule HI–C, Part I.

The proposed Part II of this schedule would contain the six loan portfolio categories and the unallocated category for which data are currently collected in existing Schedule HI–C along with the following portfolio categories for which allowance information would begin to be reported for HTM debt securities:

1. Securities issued by states and political subdivisions in the U.S.
2. Mortgage-backed securities (MBS) (including collateralized mortgage obligations, real estate mortgage investment conduit, and stripped MBS).
   a. Mortgage-backed securities issued or guaranteed by U.S. Government agencies or sponsored agencies.
   b. Other mortgage-backed securities.
3. Asset-backed securities and structured financial products.
4. Other debt securities.
5. Total.

For each category of loans in Part II of Schedule HI–C, institutions would report the amortized cost and the allowance balance in Columns A and B, respectively. The amortized cost amounts to be reported would exclude the accrued interest receivable that is reported in ''Other assets'' on the balance sheet. For each category of HTM debt securities in Part II of Schedule HI–C, institutions would report the allowance balance. The amortized cost and allowance information on loans and the allowance information on HTM debt securities would be reported quarterly and would be completed only by institutions with $1 billion or more in total assets, as is currently done with existing Part I of Schedule HI–C.

The Board will use the securities-related information gathered in proposed Part II of the schedule to monitor the allowance levels for the categories of HTM debt securities specified above. Further, with the proposed removal of FR Y–9C item for OTTI losses recognized in earnings (Schedule HI, Memorandum item 17), proposed Schedule HI–C, Part II, will become another source of information regarding credit losses of HTM debt securities, in addition to data proposed to be reported in Schedule HI–B, Part II. From March 31, 2019, through September 30, 2022, the reporting form and instructions for Schedule HI–C, Part II, would include guidance stating that only those institutions with $1 billion or more in total assets that have adopted ASU 2016–13 should complete Schedule HI–C, Part II.

In addition, effective December 31, 2022, the Board proposes to remove the existing Schedule HI–C, Part I. Schedule HI–C, Part II, would then be the only table remaining within this schedule and the ''Part II'' designation would be removed.

Notes to the Income Statement-Predecessor Financial Items

Effective March 31, 2021, the Board proposes to address the broader scope of financial assets for which a provision will be calculated under ASU 2016–13. From March 31, 2019, through September 30, 2022, the reporting form and instructions for line item 4, ''Provision for loan and lease losses,'' would include guidance that only institutions that have adopted ASU 2016–13 should report the provision for credit losses in this item. Effective March 31, 2021, the Board proposes to revise line item 4 from ''Provision for Loan and Lease losses'' to ''Provision for Credit Losses.''

Notes to the Income Statement

Effective March 31, 2019, the Board proposes to add a preprinted caption to the text field that would be titled ''Adoption of Current Expected Credit Losses Methodology—ASC Topic 326.'' Institutions will use this item to report the cumulative-effect adjustment (net of applicable income taxes) recognized in retained earnings for the changes in the allowances for credit losses on financial assets and off-balance sheet credit exposures as of the beginning of the fiscal year in which the institution adopts ASU 2016–13. Providing a preprinted caption for this data item, rather than allowing each holding company to enter its own description for this cumulative-effect adjustment, will enhance the Board's ability to compare the impact of the adoption of ASU 2016–13 across institutions. From March 31, 2019, through December 31, 2022, the reporting form and instructions for Notes to the Income Statement, would specify that this item is to be completed only in the quarter-end FR Y–9C for the remainder of the calendar year in which a holding company adopts ASU 2016–13. The Board anticipates that this preprinted caption would be removed after all holding companies have adopted ASU 2016–13.

To address the broader scope of financial assets for which an allowance will be maintained under ASU 2016–13, effective March 31, 2019, the Board proposes to add two preprinted captions to the text field that would be titled ''Initial allowances for credit losses recognized upon the acquisition of purchased deteriorated assets on or after the effective date of ASU 2016–13'' and ''Effect of adoption of current expected credit losses methodology on allowances for credit losses on loans and leases held for investment and held-to-maturity debt securities.'' The latter of these preprinted captions would be used to capture the change in the amount of allowances from initially applying ASU 2016–13 on these two categories of assets as of the effective date of the accounting standard in the period of adoption, including the initial gross-up for any PCD assets held as of the effective date. From March 31, 2019, through September 30, 2022, the reporting form and instructions would specify that these items are to be completed only by holding companies that have adopted ASU 2016–13 and, for the latter preprinted caption, only in the quarter-end FR Y–9C report for the remainder of the calendar year in which an institution adopts ASU 2016–13. The Board anticipates the latter preprinted caption would be removed after all institutions have adopted ASU 2016–13.

Schedule HC

To address the broader scope of financial assets for which allowances will be estimated under ASU 2016–13, the Board proposes revisions to the reporting form and instructions to specify which assets should be reported net of an allowance for credit losses on the balance sheet and which asset categories should be reported gross of such an allowance. The Board determined that the only financial asset category for which separate (*i.e.,* gross)

reporting of the amortized cost [5] and the allowance is needed on Schedule HC continues to be item 4.b, ''Loans and leases held for investment,'' because of the large relative size and importance of these assets and their related allowances to the overall balance sheet for most institutions. For other financial assets within the scope of CECL, the Board proposes that holding companies report these assets at amortized cost [6] net of the related allowance for credit losses on Schedule HC.

Effective March 31, 2021, the Board proposes to revise Schedule HC, item 2.a, from ''Held-to-maturity securities'' to ''Held-to-maturity securities, net of allowance for credit losses.'' From March 31, 2019, through December 31, 2020, the Board proposes to add a footnote to Schedule HC, item 2.a, specifying that holding companies should ''report this amount net of any applicable allowance for credit losses.'' Additionally, for Schedule HC, item 3.b, ''Securities purchased under agreements to resell,'' and Schedule HC, item 11, ''Other assets,'' effective March 31, 2019, the Board proposes to add a footnote to these items specifying that holding companies should ''report this amount net of any applicable allowance for credit losses.'' From March 31, 2019, through September 30, 2022, the reporting form and the instructions for Schedule HC, items 2.a, 3.b, and 11, would specify that reporting such items net of any related allowances for credit losses is applicable only to those institutions that have adopted ASU 2016–13. Given that AFS debt securities are carried on Schedule HC at fair value, the Board is not proposing any changes to Schedule HC, item 2.b, ''Available-for-sale securities,'' and instead propose reporting allowances for credit losses on AFS debt securities only in Schedule HI–B, Part II.

In addition, to address the change in allowance nomenclature arising from the broader scope of allowances under ASU 2016–13, the Board proposes to revise Schedule HC, item 4.c, from ''LESS: Allowance for loan and lease losses'' to ''LESS: Allowance for credit losses on loans and leases'' effective March 31, 2021. Effective March 31, 2019, the Board proposes to add a footnote to this item specifying that institutions who have adopted ASU 2016–13 should report the allowance for credit losses on loans and leases in this item.

Schedule HC–B

Effective March 31, 2019, the Board proposes to revise the instructions to Schedule HC–B to clarify that for institutions that have adopted ASU 2016–13, allowances for credit losses should not be deducted from the amortized cost amounts reported in columns A and C of this schedule.[7] In other words, institutions should continue reporting the amortized cost of HTM and AFS debt securities in these two columns of Schedule HC–B gross of their related allowances for credit losses.

Schedule HC–C

Effective March 31, 2021, to address the change in allowance nomenclature, the Board proposes to revise the reporting form and the instructions for Schedule HC–C by replacing references to the allowance for loan and lease losses in statements indicating that the allowance should not be deducted from loans and leases in this schedule with references to the allowance for credit losses. Thus, loans and leases will continue to be reported gross of any allowances or allocated transfer risk reserve in Schedule HC–C.

In addition, to address the elimination of PCI assets by ASU 2016–13, the Board proposes to remove Schedule HC–C, Part I, Memorandum items 5.a and 5.b, in which institutions report the outstanding balance and balance sheet amount, respectively, of PCI loans held for investment effective December 31, 2022. The agencies determined that these items were not needed after the transition to PCD loans under ASU 2016–13 because the ASU eliminates the separate credit impairment model for PCI loans and applies CECL to all loans held for investment measured at amortized cost. From March 31, 2019, through September 30, 2022, the reporting form and the instructions for Schedule HC–C, Memorandum items 5.a and 5.b, would specify that these items should be completed only by institutions that have not yet adopted ASU 2016–13.

Additionally, since ASU 2016–13 supersedes ASC 310–30, the Board proposes to revise Schedule HC–C, Memorandum item 12, ''Loans (not subject to the requirements of the American Institute of Certified Public Accountants (AICPA) Statement of Position 03–3) and leases held for investment that were acquired in business combinations with acquisition dates in the current calendar year,'' effective December 31, 2022. As revised, the loans held for investment to be reported in Memorandum item 12 would be those not considered purchased credit deteriorated per ASC 326. From March 31, 2019, through September 30, 2022, the Board proposes to revise the reporting form and the instructions for Schedule HC–C, by adding a statement explaining that, subsequent to adoption of ASU 2016–13, a holding company should report only loans held for investment not considered purchased credit deteriorated per ASC 326 in Schedule HC–C, Memorandum item 12.

Schedule HC–F

To address the broader scope of financial assets for which an allowance will be applicable under ASU 2016–13, the Board proposes to specify that assets within the scope of the ASU that are included in Schedule HC–F should be reported net of any applicable allowances for credit losses. Effective March 31, 2019, the Board proposes to revise the reporting form and the instructions for Schedule HC–F by adding a statement explaining that, subsequent to adoption of ASU 2016–13, a holding company should report asset amounts in Schedule HC–F net of any applicable allowances for credit losses.

In addition, effective March 31, 2019, the Board is proposing to add a footnote to item 1, ''Accrued interest receivable'' on the reporting form and a statement to the instructions for item 1 that specifies that holding companies should exclude from this item any accrued interest receivables that is reported elsewhere on the balance sheet as part of the related financial asset's amortized cost.

Schedule HC–G

To address ASU 2016–13's exclusion of off-balance sheet credit exposures that are unconditionally cancellable from the scope of off-balance sheet credit exposures for which allowances for credit losses should be measured, the Board proposes to revise the reporting form and instructions for Schedule HC–G, item 3, ''Allowance for credit losses on off-balance-sheet credit exposures,'' effective March 31, 2019. As revised, the reporting form and instructions would state that holding companies that have adopted ASU 2016–13 should report in item 3 the allowance for credit losses on those off-balance sheet credit exposures that are not unconditionally cancellable.

[5] Amortized cost amounts to be reported by asset category would exclude any accrued interest receivable on assets in that category that is reported in ''Other assets'' on the balance sheet.

[6] See footnote 2.

[7] Amortized cost amounts to be reported by securities category in Schedule HC–B would exclude any accrued interest receivable on the securities in that category that is reported in ''Other assets'' on the balance sheet.

Schedule HC–K

Effective March 31, 2019, the Board proposes to revise the instructions to Schedule HC–K to clarify that, for institutions that have adopted ASU 2016–13, allowances for credit losses should not be deducted from the related amortized cost amounts when calculating the quarterly averages for all debt securities.

Schedule HC–N

To address the elimination of PCI assets by ASU 2016–13, the Board proposes to remove Schedule HC–N, Memorandum items 9.a and 9.b, in which institutions report the outstanding balance and balance sheet amount, respectively, of past due and nonaccrual PCI loans effective December 31, 2022. The Board determined that these items were not needed for PCD loans under ASU 2016–13 given that the ASU eliminates the separate credit impairment model for PCI loans and applies CECL to PCD loans and all other loans held for investment measured at amortized cost. From March 31, 2019, through September 30, 2022, the reporting form and the instructions for Schedule HC–N, Memorandum items 9.a and 9.b, would specify that these items should be completed only by holding companies that have not yet adopted ASU 2016–13.

Schedule HC–R

In connection with the agencies' recently issued proposed rule on implementation of CECL and related transition for regulatory capital (CECL NPR),[8] the Board is proposing a number of revisions to Schedule HC–R to incorporate new terminology and the proposed optional regulatory capital transition. The proposed reporting changes to Schedule HC–R are tied to the revisions proposed in the CECL NPR. To the extent the Agencies revise the proposed elements of the CECL NPR when issuing a final rule, the Board would make any necessary corresponding adjustments to the proposed reporting revisions. Unless otherwise indicated, the proposed revisions to Schedule HC–R discussed below would take effect March 31, 2019, (or the first quarter-end report date thereafter following the effective date on any final rule) and would apply to those institutions that have adopted CECL.

The CECL NPR would introduce a newly defined regulatory capital term, allowance for credit losses (ACL), which would replace allowance for loan and lease losses (ALLL), as defined under the capital rules, for holding companies that adopt CECL. The CECL NPR also proposes that credit loss allowances for PCD assets held by these holding companies would be netted when determining the carrying value, as defined in the CECL NPR, and, therefore, only the resulting net amount would be subject to risk-weighting. In addition, under the CECL NPR, the agencies are proposing to provide institutions the option to phase in over a three-year period beginning with the institution's CECL effective date the day-one regulatory capital effects that may result from the adoption of ASU 2016–13.[9]

Allowances for Credit Losses Definition and Treatment of Purchase Credit Deteriorated Assets

In general, under the CECL NPR, holding companies that have adopted CECL would report ACL amounts in Schedule HC–R items instead of ALLL amounts that are currently reported. Effective December 31, 2022, the Board is proposing to remove references to ALLL and replace them with references to ACL on the reporting form for Schedule HC–R. From March 31, 2019, through September 30, 2022, the Board is proposing to revise the instructions to Schedule HC–R to direct institutions that have adopted CECL to use ACL instead of ALLL in calculating regulatory capital. The instructional revisions would affect Schedule HC–R, Part I. Regulatory Capital Components and Ratios, item 30.a, ''Allowance for loan and lease losses includable in tier 2 capital,'' and Schedule HC–R, Part II. Risk-Weighted Assets, items 6, ''LESS: Allowance for loan and lease losses,'' 26, ''Risk-weighted assets for purposes of calculating the allowance for loan and lease losses 1.25 percent threshold,'' 28, ''Risk-weighted assets before deductions for excess allowance of loan and lease losses and allocated risk transfer risk reserve,'' and 29, ''LESS: Excess allowance for loan and lease losses.''

In addition, under the CECL NPR, assets and off-balance sheet credit exposures for which any related credit loss allowances are eligible for inclusion in regulatory capital would be calculated and reported in Schedule HC–R Part II. Risk-Weighted Assets on a gross basis. Therefore, the Board is proposing to revise the instructions for Schedule HC–R, Part II. Risk-Weighted Assets, items 2.a, ''Held-to-maturity securities''; 3.b., ''Securities purchased under agreements to resell''; 5.a., ''Residential mortgage exposures'' held for investment; 5.b, ''High volatility commercial real estate exposures'' held for investment; 5.c, Held-for-investment ''Exposures past 90 days or more or on nonaccrual''; 5.d, ''All other exposures'' held for investment; 8, ''All other assets,'' and 9.a, ''On-balance sheet securitization exposures: Held-to-maturity securities''; to explain that holding companies that have adopted CECL should report and risk-weight their loans and leases held for investment, HTM securities, and other financial assets measured at amortized cost gross of their credit loss allowances, but net of the associated allowances on PCD assets.[10]

In addition, effective March 31, 2019, the Board proposes to add a new Memorandum item 5 to, Schedule HC–R, Part II that would collect data by asset category on the ''Amount of allowances for credit losses on purchased credit-deteriorated assets.'' The amount of such allowances for credit losses would be reported separately for ''Loans and leases held for investment'' in Memorandum item 5.a, ''Held-to-maturity debt securities'' in Memorandum item 5.b, and, ''Other financial assets measured at amortized cost'' in Memorandum item 5.c. The instructions for Schedule HC–R, Part II, Memorandum item 5, would specify that these items should be completed only by holding companies that have adopted ASU 2016–13.

The Board also would include footnotes for the affected items on the forms to highlight the revised treatment of those items for institutions that have adopted CECL.

CECL Transition Provision

Under the CECL NPR, a holding company that experiences a reduction in retained earnings as of the effective date of CECL for the holding company as a result of the holding company's adoption of CECL may elect to phase in the regulatory capital impact of adopting CECL (electing institution). As described in the CECL NPR, an electing

[8] See 83 FR 22313 (May 14, 2018).

[9] A non-PBE with a calendar year fiscal year that does not early adopt CECL would first report under CECL as of December 31, 2021, even though the non-PBE's CECL effective date is January 1, 2021. Thus, under the CECL NPR, such a non-PBE would use the phase-in percentage applicable to the first year of the three-year transition period only for the December 31, 2021, report date (*i.e.,* one quarter), not the four quarters that begin with the first report under CECL. The non-PBE may use the applicable phase-in percentages for all four quarters of the second and third years after the CECL effective date (*i.e.,* 2022 and 2023). The same principle would apply to the optional phase-in by a non-PBE with a non-calendar fiscal year.

[10] Amortized cost amounts to be reported by asset category in Schedule RC–R, Part II, would exclude any accrued interest receivable on assets in that category that is reported in ''Other assets'' on the Call Report balance sheet.

holding company would indicate in its FR Y–9C report whether it has elected to use the CECL transition provision beginning in the quarter that it first reports its credit loss allowances as measured under CECL. To identify which holding companies are electing holding companies, the Board is proposing to revise Schedule HC–R, Part I, Regulatory Capital Components and Ratios, by adding a new item 2.a in which a holding company that has adopted CECL would report whether it has or does not have a CECL transition election in effect as of the quarter-end report date. Each institution would complete item 2.a beginning in the FR Y–9C for its first reporting under CECL and in each subsequent FR Y–9C report thereafter until item 2.a is removed from the report. Until an institution has adopted CECL, it would leave item 2.a blank. Effective March 31, 2025, the Board proposes to remove item 2.a from Schedule HC–R, Part I, because the optional three-year phase-in period will have ended for all electing institutions by the end of the prior calendar year. If an individual electing institution's three-year phase-in period ends before item 2.a is removed (*e.g.,* its phase-in period ends December 31, 2022), the institution would change its response to item 2.a and report that it does not have a CECL transition election in effect as of the quarter-end report date.

During the CECL transition period, an electing institution would need to make adjustments to its retained earnings, temporary difference deferred tax assets (DTAs), ACL, and average total consolidated assets for regulatory capital purposes. An advanced approaches institution also would need to make an adjustment to its total leverage exposure. These adjustments are described in detail in the CECL NPR.

The Board is proposing to revise the instructions to Schedule HC–R, Part I, Regulatory Capital Components and Ratios, items 2, ''Retained earnings''; 30.a, ''Allowance for loan and lease losses includable in tier 2 capital''; and item 36, ''Average total consolidated assets,''; as well as Schedule HC–R, Part II, Risk-Weighted Assets, item 8, ''All other assets,'' consistent with the adjustments to these items for the applicable transitional amounts as described in the CECL NPR for electing institutions to report the adjusted amounts. The Board also propose to include footnotes on the reporting forms to highlight the proposed changes to these items for electing institutions.

Schedule HC–V

The Board proposes to clarify in the instructions effective March 31, 2019, that all assets of consolidated variable interest entities should be reported net of applicable allowances for credit losses by holding companies that have adopted ASU 2016–13. Net reporting on Schedule HC–V by such holding companies is consistent with the proposed changes to Schedules HC and HC–F. Similarly, effective March 31, 2019, the reporting form for Schedule HC–V will also specify that holding companies that have adopted ASU 2016–13 should report assets net of applicable allowances.

FR 2248, FR 2314/S, FR 2320, FR 2644, FR 2886b, FR Y–7N/NS, FR Y–8, FR Y–9LP, FR Y–9SP, and FR Y–11/S

The Board proposes to make changes to the FR 2248, FR 2314/S, FR 2320, FR 2644, FR 2886b, FR Y–7N/NS, FR Y–8, FR Y–9LP, FR Y–9SP, and the FR Y–11/S report to mirror the FR Y–9C and Call report reporting revisions related to ASU 2016–13. The report forms and instructions will be revised to clearly indicate that HTM securities, Securities purchased under agreements to resell, and Other assets should be reported net of applicable allowance for credit losses for those institutions that have adopted the standard. Additionally, the Board proposes to indicate on the report form and instructions that institutions that have adopted the ASU 2016–13 should report ''Allowance for credit losses on loans and leases'' and ''Provisions for credit losses for all applicable financial assets.''

To further address the broader scope of financial assets for which allowances will be calculated under ASU 2016–13, the Board proposes to revise the FR 2314/S, FR 2886b, FR Y–7N/NS, and the FR Y–11/S report to change the title caption from Changes in Allowance for Loan and Lease Losses'' to ''Changes in Allowances for Credit Losses'' and add three columns titled:

- Column A: Loans and leases
- Column B: Held-to-maturity debt securities
- Column C: Available-for-sale debt securities

2. EGRRCPA Proposed FR Y–9C Report Revisions

On September 28, 2018, the Board, pursuant to its delegated authority,[11] temporarily approved certain revisions to the FR Y–9C relating to statutory amendments enacted by EGRRCPA.[12] Pursuant to the requirements of the Board's delegated authority, the Board now proposes to extend these revisions for three years through the normal delegated clearance process.[13]

Section 214 of EGRRCPA, which was enacted on May 24, 2018, added a new section 51 to the Federal Deposit Insurance Act (FDI Act) governing the risk-based capital requirements for certain acquisition, development, or construction (ADC) loans. EGRRCPA provides that, effective upon enactment, the federal banking agencies may only require a depository institution to assign a heightened risk weight to an HVCRE exposure if such exposure is an ''HVCRE ADC Loan,'' as defined in this new law.

Section 202 of EGRRCPA amended section 29 of the FDI Act to exclude a capped amount of reciprocal deposits from treatment as brokered deposits for qualifying institutions, effective upon enactment. The instructions for the FR Y–9C and the Call Report, consistent with the law prior to the enactment of EGRRCPA, previously treated all reciprocal deposits as brokered deposits. In amending section 29 of the FDI Act to exclude a capped amount of reciprocal deposits from treatment as brokered deposits for qualifying institutions, section 202 defines ''reciprocal deposits'' to mean ''deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.'' The terms ''agent institution,'' ''deposit placement network,'' ''covered deposit,'' and ''network member bank,'' all of which are used in the definition of ''reciprocal deposit,'' also are defined in section 202.

In particular, an ''agent institution'' is an FDIC-insured depository institution that meets at least one of the following criteria:

- The institution is well-capitalized *and* has a composite condition of ''outstanding'' or ''good'' when most recently examined under section 10(d) of the FDI Act (12 U.S.C. 1820(d));
- The institution has obtained a waiver from the FDIC to accept, renew, or roll over brokered deposits pursuant to section 29(c) of the FDI Act (12 U.S.C. 1831f(c)); or
- The institution does not receive reciprocal deposits in an amount that is greater than a ''special cap'' (discussed below).

Under the ''general cap'' set forth in section 202, an agent institution may classify reciprocal deposits up to the lesser of the following amounts as non-brokered reciprocal deposits:

[11] 5 CFR Pt. 1320, Appx. A(a)(3)(i)(A).

[12] See 83 FR 48990 (September 28, 2018).

[13] See 5 CFR Pt. 1320, Appx. A(a)(3)(i)(B).

- $5 billion or
- An amount equal to 20 percent of the agent institution's total liabilities.

Any amount of reciprocal deposits in excess of the ''general cap'' would be treated as, and should be reported as, brokered deposits.

A ''special cap'' applies if an agent institution is either *not* ''well-rated'' or *not* well-capitalized. In this situation, the institution may classify reciprocal deposits as non-brokered in an amount up to the lesser of the ''general cap'' or the average amount of reciprocal deposits held at quarter-end during the last four quarters the institution was well-capitalized *and* in ''outstanding'' or ''good'' condition.

To address the change in the treatment of HVCRE loans and certain reciprocal deposits under EGRRCPA, the agencies have made a number of revisions to the September 2018 Call instructions. In order to avoid the regulatory burden associated with applying different definitions for HVCRE exposures and reciprocal deposits within a single organization, the Board temporarily revised the FR Y–9C instructions so that they that are consistent with those changes to the Call Report. To assist holding companies in preparing the FR Y–9C for that report date, the revised FR Y–9C Supplemental Instructions include information regarding the reporting of HVCRE exposures and reciprocal deposits.

Specifically, the temporary revisions to the FR Y–9C report provide that (i) respondents are permitted to report brokered deposits (in Schedule HC–E Memorandum items 1 and 2) in a manner consistent with the provisions of EGRRCPA,[14] but also may choose to continue to report brokered deposits in a manner consistent with the current instructions to the FR Y–9C and (ii) respondents are permitted to apply a heightened risk weight only to those HVCRE exposures (in Schedule HC–R, Part II, items 4.b, 5.b and 7) they believe meet the definition of HVCRE ADC Loan, but also may choose to continue to report and risk weight HVCRE exposures in a manner consistent with the previous instructions to the FR Y–9C.

[14] Although the EGRRCPA provision relating to reciprocal deposits and the risk-weighting of HVCRE applies only to depository institutions, the Board proposes that the FR Y–9C be revised to permit holding companies to report HVCRE in a manner consistent with their subsidiary depository institutions.

3. Other Proposed Revisions

Proposed Revisions To the FR Y–9C

On the Notes to the Income Statement—Predecessor Financial Items, the Board is proposing to add a footnote to line item 6, Realized gains (losses) on held-to-maturity and available-for-sale securities to instruct holding companies to include realized and unrealized holding gains and losses in this item in order to implement the accounting change pertaining to equity securities under Accounting Standards Update (ASU No. 2016–01, ''Recognition and Measurement of Financial Assets and Financial Liabilities''). This change is consistent with the changes to the Call Report[15] and the FR Y–9C[16] report that became effective March 31, 2018. This change is effective March 31, 2019.

Proposed Revisions To the FR 2886b

Effective March 31, 2019, the Board proposes to implement a number of revisions to the FR 2886b reporting requirements, most of which are proposed to align with changes implemented on the Call Report. The proposed changes include:

- Revisions to Schedule RC–R, Regulatory Capital, for banking Edge corporations,
- Revisions to the eligibility criteria for reporting Schedule RC–D, Trading Assets and Liabilities,
- Revisions to address changes in accounting for equity investments not held for trading, and
- Revisions to the reporting of equity investments accounted for under the equity method of accounting.

Schedule RC–R, Regulatory Capital (for Banking Edge Corporations)

Effective January 1, 1993, banking Edge corporations became subject to capital adequacy guidelines under section 211.12(c) of Regulation K, International Banking Operations (12 CFR 211). According to Regulation K, banking Edge corporations must maintain a minimum total capital to total risk-weighted assets ratio of at least 10 percent, of which at least 50 percent must consist of Tier 1 capital. In order to assess compliance with the capital requirements of Regulation K, banking Edge corporations file FR 2886b Schedule RC–R, which currently consists of six items:

- Tier 1 capital allowable under the risk-based capital guidelines,
- Tier 2 capital allowable under the risk-based capital guidelines,
- Subordinated debt allowable as Tier 2,
- Total qualifying capital allowable under risk-based capital guidelines,
- Total risk-weighted assets and credit equivalent amounts of off-balance sheet items and
- Credit equivalent amounts of off-balance-sheet items.

In October of 2013, the Board and the OCC published the revised capital rules in the **Federal Register**.[17] (The FDIC published its own identical rules). The revised capital rules updated Regulation Q—Capital Adequacy of Bank Holding Companies, Savings and Loan Holding Companies, and State Member Banks (12 CFR 217). As a result of this update, the concept of risk-based capital rules in Regulation Q replaced the concept of capital adequacy guidelines. Since banking Edge corporations are subject to capital adequacy guidelines under Regulation K, and the concept of capital adequacy guidelines in Regulation K was replaced by the concept of risk-based capital rules in Regulation Q, banking Edge corporations were now subject to risk-based capital rules under Regulation Q.

From August of 2013 to February of 2015, the Board, in conjunction with the OCC and the FDIC, published initial and final notices in the **Federal Register** to revise Call Report Schedule RC–R, Regulatory Capital, to align with the revised capital rules under Regulation Q.[18] As a result, Call Report Schedule RC–R, Part I, Regulatory Capital Components and Ratios, and Part II, Risk-Weighted Assets, were revised as of March 2014 and March 2015, respectively. The FR 2886b Schedule RC–R was not updated at this time to reflect the revised capital rules.

The Board proposes to remove all six existing items on FR 2886b Schedule RC–R, and replace them with four items that correspond to the risk-based capital rules under Regulation Q. The proposed revisions are similar to the revisions made on Call Report Schedule RC–R, albeit concerning fewer items. The Board believes these four items sufficiently assess risk-based capital adequacy for banking Edge corporations, and better align with the risk-based capital rules under Regulation Q. Specifically, the Board proposes to add the following items to FR 2886b Schedule RC–R:

- Tier 1 Capital allowable under Regulation Q,
- Tier 2 Capital allowable under Regulation Q,

[15] See 83 FR 939 (February 7, 2018).

[16] See 83 FR 12395 (March 21, 2018).

[17] See 78 FR 62018 (October 11, 2013).

[18] See 78 FR 48934 (August 12, 2013), 79 FR 2527 (January 14, 2014), 79 FR 35634 (June 23, 2014), and 80 FR 5618 (February 2, 2015).

- Total Capital allowable under Regulation Q and
- Total risk-weighted assets.

Schedule RC–D, Trading Assets and Liabilities

The Board proposes to change the reporting threshold for filing Schedule RC–D to Edges with total trading assets of $10 million or more in any of the four preceding calendar quarters, from the current threshold of $2 million. The Board no longer needs the information reported in this schedule from Edges with a lesser amount of trading assets.

Changes in Accounting for Equity Investments Not Held for Trading

In January 2016, the FASB issued ASU No. 2016–01, ''Recognition and Measurement of Financial Assets and Financial Liabilities.'' The Board proposes to revise the FR 2886b report form and instructions to account for the changes to U.S. GAAP set forth in ASU 2016–01 that are consistent with the changes made to the Call Report.[19] These proposed revised reporting requirements would become effective for different sets of respondents as those respondents become subject to the ASU. Institutions that are public business entities, as defined in U.S. GAAP, are subject to ASU 2016–01 for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. As discussed below, interim guidance has been provided for purposes of reporting by such an institution in accordance with the ASU in its FR 2886b beginning with the March 31, 2018, report date. For all other institutions, the ASU is effective for fiscal years beginning after December 15, 2018, and interim periods within fiscal years beginning after December 15, 2019. The period over which institutions will be implementing this ASU ranges from the first quarter of 2019 through the fourth quarter of 2020. December 31, 2020, will be the first quarter-end FR 2886b report date as of which all institutions would be required to prepare their FR 2886b in accordance with ASU 2016–01 and the proposed revised reporting requirements.

The changes to the accounting for equity investments under ASU 2016–01 will affect several existing data items in the FR 2886b. One outcome of the change in accounting for equity investments under ASU 2016–01 is the elimination of the concept of available-for-sale (AFS) equity securities, which are measured at fair value on the balance sheet with changes in fair value recognized through other comprehensive income. At present, the historical cost and fair value of AFS equity securities, *i.e.,* investments in mutual funds and other equity securities with readily determinable fair values that are not held for trading, are reported in FR 2886b Schedule RC–B (Securities), item 3, columns C and D, respectively. The total fair value of AFS securities, which includes both debt and equity securities, is then carried forward to the FR 2886b balance sheet and reported in Schedule RC, item 2.

At present, the accumulated balance of the unrealized gains (losses) on AFS equity securities, net of applicable income taxes, that have been recognized through other comprehensive income is included in accumulated other comprehensive income (AOCI), which is reported in the equity capital section of the FR 2886b balance sheet in Schedule RC, item 24. With the elimination of AFS equity securities on the effective date of ASU 2016–01, the net unrealized gains (losses) on these securities that had been included in AOCI will be reclassified (transferred) from AOCI into the retained earnings component of equity capital, which is reported on the FR 2886b balance sheet in Schedule RC, item 23. After the effective date, changes in the fair value of (*i.e.,* the unrealized gains and losses on) an institution's equity securities that would have been classified as AFS had the previously applicable accounting standards remained in effect will be recognized through net income rather than other comprehensive income.

The effect of the elimination of AFS equity securities as a distinct asset category upon institutions' implementation of ASU 2016–01 carries over to the agencies' regulatory capital rules. Under these rules, institutions that are eligible to and have elected to make the AOCI opt-out election deduct net unrealized losses on AFS equity securities from common equity tier 1 capital and include 45 percent of pretax net unrealized gains on AFS equity securities in tier 2 capital. When ASU 2016–01 takes effect and the classification of equity securities as AFS is eliminated for accounting and reporting purposes under U.S. GAAP, the concept of unrealized gains and losses on AFS equity securities will likewise cease to exist.

Another outcome of the change in accounting for equity investments under ASU 2016–01 is that equity securities and other equity investments without readily determinable fair values that are within the scope of ASU 2016–01 and are not held for trading must be measured at fair value through net income, rather than at cost (less impairment, if any), unless the measurement election described above is applied to individual equity investments. In general, institutions currently report their holdings of such equity securities without readily determinable fair values as a category of other assets in FR 2886b Schedule RC, item 8 (item 8 is the total amount of an institution's other assets).

At present, AFS equity securities and equity investments without readily determinable fair values are included in the quarterly averages reported in Schedule RC–K. Institutions report the quarterly average of its total securities in item 7 of this schedule and this average reflects AFS equity securities at fair value and equity investments without readily determinable fair values at historical cost (item 7 is total assets; there is no breakout for securities on Schedule RC–K on the FR 2886b).

The Board has considered the changes to the accounting for equity investments under ASU 2016–01 and the effect of these changes on the manner in which data on equity securities and other equity investments are currently reported in the FR 2886b, which has been described above. Accordingly, the proposed revisions to the FR 2886b report form and instructions to address the equity securities accounting changes are as follows:

Schedule RI

To provide transparency to the effect of unrealized gains and losses on equity securities not held for trading on an institution's net income during the year-to-date reporting period in Schedule RI, Income Statement, and to clearly distinguish these gains and losses from the rest of an institution's income (loss) from its continuing operations, Schedule RI, item 8, would be revised effective March 31, 2019, by creating new items 8.a, ''Income (loss) before unrealized holding gains (losses) on equity securities not held for trading, applicable income taxes, and discontinued operations,'' and 8.b, ''Unrealized holding gains (losses) on equity securities not held for trading.'' In addition to unrealized holding gains (losses) during the year-to-date reporting period on such equity securities with readily determinable fair values, institutions would also report in proposed new item 8.b the year-to-date changes in the carrying amounts of equity investments without readily determinable fair values not held for trading (*i.e.,* unrealized holding gains (losses) for those measured at fair value through earnings; impairment, if any, plus or minus changes resulting from observable price changes for those

[19] See 83 FR 939 (January 8, 2018).

equity investments for which this measurement election is made). Existing Schedule RI, item 8, ''Income (loss) before applicable income taxes and discontinued operations,'' would be renumbered as item 8.c, and would be the sum of items 8.a and 8.b. From March 31, 2019, through September 30, 2020, the instructions for item 8.b and the reporting form for Schedule RI would include guidance stating that item 8.b is to be completed only by institutions that have adopted ASU 2016–01. Institutions that have not adopted ASU 2016–01 would leave item 8.b blank when completing Schedule RI. Finally, from March 31, 2019, through September 30, 2020, the instructions for Schedule RI, item 6, ''Realized gains (losses) on securities not held in trading accounts,'' and the reporting form for Schedule RI would include guidance stating that, for institutions that have adopted ASU 2016–01, item 6 includes realized gains (losses) only on AFS debt securities. Effective December 31, 2020, the caption for item 6 would be revised to ''Realized gains (losses) on available-for-sale debt securities.''

Schedule RC

In Schedule RC, Balance Sheet, item 2, ''Securities,'' would be split into three items: Item 2.a: ''Held-to-maturity securities, net of allowance for credit losses,'' item 2.b: ''Available-for-sale securities not held for trading,'' and 2.c: ''Equity securities with readily determinable fair values not held for trading,'' effective March 31, 2019. From March 31, 2019, through September 30, 2020, the instructions for item 2.c and the reporting form for Schedule RC would include guidance stating that item 2.c is to be completed only by institutions that have adopted ASU 2016–01. Institutions that have not adopted ASU 2016–01 would leave item 2.c blank. During this period, the instructions for items 2.a and 2.b would explain that institutions that have adopted ASU 2016–01 should include only debt securities in these items. Effective December 30, 2020, the caption for item 2.a would be revised to ''Held-to-maturity debt securities, net of allowance for credit losses,'' and the caption for item 2.b would be revised to ''Available-for-sale debt securities not held for trading.'' All institutions would report their holdings of equity securities with readily determinable fair values not held for trading in item 2.c.

In Schedule RC, item 8, Other Assets, the instructions would be revised to add language stating institutions that have adopted ASU 2016–01 should report ''equity investments without readily determinable fair values'' at fair value, effective March 31, 2019. Institutions that have not adopted ASU 2016–01 would continue to report ''equity securities that do not have readily determinable fair values'' at historical cost. The types of equity securities and other equity investments currently reported in item 8 would continue to be reported in this item. However, after the effective date of ASU 2016–01 for an institution, the securities the institution reports in item 8 would be measured in accordance with the ASU.

Schedule RC–B

In Schedule RC–B, item 3, ''Equity interest in nonrelated organizations,'' would be removed effective December 30, 2020. From March 31, 2019, through September 30, 2020, the instructions for item 3 and the reporting form for Schedule RC–B would include guidance stating that item 3 is to be completed only by institutions that have not adopted ASU 2016–01. Institutions that have adopted ASU 2016–01 would leave item 3 blank.

Interim Guidance

Institutions that applied ASU 2016–01 in the first quarter of 2018 will need to report their holdings of equity securities and other equity investments in accordance with this accounting standard within the existing structure of the FR 2886b beginning with the March 31, 2018, report date. As a result, the Board provided interim guidance for the March 31, 2018, report date advising institutions that have adopted ASU 2016–01 to (1) report realized and unrealized holding gains (losses) on equity securities not held for trading in the appropriate subitem of either item 5 (noninterest income) or item 7 (noninterest expense) of Schedule RI (Income Statement), as applicable. In addition to realized and unrealized holding gains (losses) during the year-to-date reporting period on such equity investments with readily determinable fair values, institutions should also report in Schedule RI, item 5 or 7, as applicable, the year-to-date carrying amounts of equity investments without readily determinable fair values not held for trading (*i.e.,* unrealized holding gains (losses) for those measured at fair value through earnings, impairment, if any, plus or minus changes resulting from observable price changes for those equity investments for which this measurement election is made). For institutions that have adopted ASU 2016–01, Schedule RI, item 6 (realized gains (losses) on securities not held in trading accounts) would only include realized gains (losses) on available-for-sale debt securities, (2) measure their holdings of equity securities and other equity investments without readily determinable fair values not held for trading in accordance with the ASU and continue to report them in Schedule RC (Balance Sheet), item 8 (Other assets), and (3) continue to report the historical cost and fair value of their holdings of equity securities with readily determinable fair values not held for trading (which were reportable as available-for-sale equity securities prior to the adoption of ASU 2016–01) in Schedule RC–B, item 3 (Equity interest in nonrelated organizations), columns C and D, respectively.

Investments Accounted for Uunder the Equity Method of Accounting

The instructions for Schedule RC–B, item 3, ''Equity interest in nonrelated organizations,'' currently state to include investments that represent 20 percent to 50 percent of the voting shares of an organization accounted for under the equity method of accounting, and these investments are reported as either held-to-maturity or available-for-sale. Upon review, it was determined this treatment is not in compliance with U.S. GAAP, as investments accounted for under the equity method of accounting should not be classified as either held-to-maturity or available-for-sale. Guidance on securities accounted for under the equity method is provided in ASC Subtopic 323–10, Investments—Equity Method and Joint Ventures-Overall. To become U.S. GAAP compliant and to align with the reporting on the Call Report, the Board proposes to revise the instructions to indicate investments that represent 20 percent to 50 percent of the voting shares of an organization accounted for under the equity method of accounting should no longer be included in Schedule RC–B, item 3, but rather included in Schedule RC, item 8, ''Other assets.''

In addition, Schedule RC–B, item 3, columns A and B, Amortized Cost and Fair Value of Held-to-maturity equity interest in nonrelated organizations, respectively, would be discontinued effective March 31, 2019, as these items are no longer needed by the Board. Columns C and D, Amortized Cost and Fair value of Available-for-sale securities, would remain on the form and continue to be collected until December 31, 2020, when all institutions must comply with ASU 2016–01 (see description of proposed revisions due to ASU 2016–01 for more information).

Legal authorization and confidentiality (FR Y–9 family of reports): The FR Y–9 family of reports

is authorized by section 5(c) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844(c)), section 10 of Home Owners' Loan Act (12 U.S.C. 1467a(b)) and section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (12 U.S.C. 1850a(c)(1)), and section 165 of the Dodd-Frank Act (12 U.S.C. 5365). These reports are mandatory.

With respect to the FR Y–9LP, FR Y–9SP, FR Y–9ES, FR Y–9CS, as well as most items on the FR Y–9C, the information collected would generally not be accorded confidential treatment. If confidential treatment is requested by a respondent, the Board will review the request to determine if confidential treatment is appropriate.

With respect to the FR Y–9C, Schedule HI's item 7(g) ''FDIC deposit insurance assessments,'' Schedule HC–P's item 7(a) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies,'' and Schedule HC–P's item 7(b) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to other parties'' are considered confidential. Such treatment is appropriate because the data is not publicly available and could cause substantial harm to the competitive position of the respondent. The public release of this confidential data may impair the Board's future ability to collect similarly confidential data. Thus, this information may be kept confidential under exemptions (b)(4) of the Freedom of Information Act (FOIA), which exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential'' (5 U.S.C. 552(b)(4)), and (b)(8) of the Freedom of Information Act, which exempts from disclosure information related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions (5 U.S.C. 552(b)(8)). If confidential treatment is requested by a respondent for other items in the FR Y–9C, the Board will review the request to determine if confidential treatment is appropriate.

Legal authorization and confidentiality (FR Y–7 family of reports). With respect to FBOs and their subsidiary IHCs, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require FBOs and any subsidiary thereof to file the FR Y–7N reports, and the FR Y–7Q.

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

Legal authorization and confidentiality (FR Y–8). The FR Y–8 is mandatory for respondents that control an insured depository institution that has engaged in covered transactions with an affiliate during the reporting period. Section 5(c) of the BHC Act authorizes the Board to require BHCs to file the FR Y–8 reporting form with the Board (12 U.S.C. 1844(c)). Section 10(b)(2) of the Home Owners' Loan Act authorizes the Board to require SLHCs to file the FR Y–8 reporting form with the Board (12 U.S.C. 1467a(b)(2)). The release of data collected on this form includes financial information that is not normally disclosed by respondents, the release of which would likely cause substantial harm to the competitive position of the respondent if made publicly available. The data collected on this form, therefore, would be kept confidential under exemption 4 of FOIA which protects from disclosure trade secrets and commercial or financial information (5 U.S.C. 552(b)(4)).

Legal authorization and confidentiality (FR Y–11). The Board has the authority to require BHCs and any subsidiary thereof, savings and loan holding companies and any subsidiary thereof, and securities holding companies and any affiliate thereof to file the FR Y–11 pursuant to, respectively, section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10(b) of the Homeowners' Loan Act (12 U.S.C. 1467a(b)), and section 618 of the Dodd-Frank Act (12 U.S.C. 1850a). With respect to FBOs and their subsidiary IHCs, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require FBOs and any subsidiary thereof to file the FR Y–11 reports. These reports are mandatory.

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

Legal authorization and confidentiality (FR 2248). The Board has determined that the FR 2248 is authorized by law pursuant to section 2A of the Federal Reserve Act (12 U.S.C. 225a). The obligation to respond is voluntary. Individual respondent data are confidential under section (b)(4) of FOIA (5 U.S.C. 552).

Legal authorization and confidentiality (FR 2314). The Board has the authority to require BHCs and any subsidiary thereof, savings and loan holding companies and any subsidiary thereof, and securities holding companies and any affiliate thereof to file the FR 2314 pursuant to, respectively, section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10(b) of the Homeowners' Loan Act (12 U.S.C. 1467a(b)), and section 618 of the Dodd-Frank Act (12 U.S.C. 1850a). The Board has the authority to require SMBs, agreement corporations, and Edge corporations to file the FR 2314 pursuant to, respectively, sections 9(6), 25(7), and 25A(17) of the Federal Reserve Act (12 U.S.C. 324, 602, and 625). With respect to FBOs and their subsidiary IHCs, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require FBOs and any subsidiary thereof to file the FR 2314 reports. These reports are mandatory.

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information

may be afforded confidential treatment pursuant to exemption 8 of FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

Legal authorization and confidentiality (FR 2320). The Board has the authority to require SLHCs to file the FR 2320 pursuant to the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2)). The FR 2320 is mandatory for exempt SLHCs. In some cases, lower-tier SLHCs may voluntarily file the FR 2320. In other cases lower-tier SLHCs may be required to file (in addition to the top-tier SLHC) for safety and soundness purposes at the discretion of the appropriate Federal Reserve Bank.

The Board also has determined that data items C572, C573, and C574 (line items 24, 25, and 26) may be protected from disclosure under exemption 4 of FOIA. Commercial or financial information may be protected from disclosure under exemption 4 if disclosure of such information is likely to cause substantial competitive harm to the provider of the information (5 U.S.C. 552(b)(4)). The data items listed above pertain to new or changed pledges, or capital stock of any subsidiary savings association that secures short-term or long-term debt or other borrowings of the SLHC; changes to any class of securities of the SLHC or any of its subsidiaries that would negatively impact investors; and defaults of the SLHC or any of its subsidiaries during the quarter. Disclosure of this type of information is likely to cause substantial competitive harm to the SLHC providing the information and thus this information may be protected from disclosure under FOIA exemption 4.

With regard to the remaining data items on the FR 2320, the Board has determined that institutions may request confidential treatment for any FR 2320 data item or for all FR 2320 data items, and that confidential treatment will be reviewed on a case-by-case basis.

Legal authorization and confidentiality (FR 2644). The FR 2644 is authorized by section 2A and 11(a)(2) of the Federal Reserve Act (12 U.S.C. 225(a) and 248(a)(2)) and by section 7(c)(2) of the International Banking Act (12 U.S.C. 3105(c)(2)) and is voluntary. Individual respondent data are regarded as confidential under FOIA (5 U.S.C. 552(b)(4)).

Legal authorization and confidentiality (FR 2886b). Sections 25 and 25A of the Federal Reserve Act authorize the Board to collect the FR 2886b (12 U.S.C. 602, 625). The FR 2886b is mandatory. The information collected on this report is generally not considered confidential. However, information provided on Schedule RC–M (with the exception for item 3) and on Schedule RC–V, both of which pertain to claims on and liabilities to related organizations, may be exempt from disclosure pursuant to exemption (b)(4) of FOIA (5 U.S.C. 552(b)(4)). The information provided in the Patriot Act Contact Information section of the reporting form may be exempt from disclosure pursuant to exemption (b)(7)(C) of FOIA (5 U.S.C. 552(b)(7)(C)).

Board of Governors of the Federal Reserve System, December 4, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

Appendix A

EFFECTIVE DATES FOR ASU 2016–13

	U.S. GAAP effective date	Regulatory report effective date *
PBEs That Are SEC Filers	Fiscal years beginning after 12/15/2019, including interim periods within those fiscal years.	03/31/2020.
Other PBEs (Non-SEC Filers) ..	Fiscal years beginning after 12/15/2020, including interim periods within those fiscal years.	03/31/2021.
Non-PBEs	Fiscal years beginning after 12/15/2020, and interim periods for fiscal years beginning after 12/15/2021 [20].	12/31/2021.[21]
Early Application	Early application permitted for fiscal years beginning after 12/15/2018, including interim periods within those fiscal years.	First calendar quarter-end after effective date of early application of the ASU.

** For institutions with calendar fiscal year-ends and reports with quarterly report dates.*

For additional information on key elements of the new accounting standard and initial supervisory views with respect to measurement methods, use of vendors, portfolio segmentation, data needs, qualitative adjustments, and allowance processes, refer to the agencies' Joint Statement on the New Accounting Standard on Financial Instruments—Credit Losses issued on June 17, 2016, and Frequently Asked Questions on the New Accounting Standard on Financial Instruments—Credit Losses (CECL FAQs), which were last updated on September 6, 2017.[22]

For institutions that are PBEs and also are SEC filers, as both terms are defined in U.S. GAAP, the new credit losses standard is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Thus, for an SEC filer that has a calendar year fiscal year, the standard is effective January 1, 2020, and institutions must first apply the new credit losses standard in its FR 2314, FR 2320, FR 2886b, FR Y–7N, FR Y–8, FR Y–9C, FR Y–9LP and the FR Y–11 report for the quarter ended March 31, 2020. For the FR 2248, FR 2644 and the FR Y–9SP reporters must first apply the new credit losses standard January 31, 2020, January 1, 2020 and June 30, 2020, respectively.

For a PBE that is not an SEC filer, the credit losses standard is effective for fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. Thus, for a PBE that is not an SEC filer and has a calendar year fiscal year, the standard is effective January 1, 2021, and the institution must first apply the new credit losses standard in its FR 2314, FR 2320, FR 2886b, FR Y–7N, FR Y–8, FR Y–9C, FR Y–9LP and the FR Y–11 for the quarter ended March 31, 2021. For the FR 2248, FR 2644 and the FR Y–9SP reporters must first apply the new credit losses standard, January 31, 2021, January 6, 2021, and June 30, 2021, respectively.

For an institution that is not a PBE, the credit losses standard is effective for fiscal years beginning after December 15, 2020, and for interim period financial statements for

[20] See Footnote 23.

[21] See Footnote 24.

[22] The CECL FAQs and a related link to the joint statement can be found on the Board's website: *https://www.federalreserve.gov/supervisionreg/srletters/sr1708a1.pdf.*

fiscal years beginning after December 15, 2021.[23] Thus, an institution with a calendar year fiscal year that is not a PBE must first apply the new credit losses standard in its FR 2248, FR 2314, FR 2320, FR 2886b, FR Y–7N, FR Y–8, FR Y–9C, FR Y–9LP, FR Y–9SP, and FR Y–11 for December 31, 2021, if the institution is required to file such form.[24] The FR 2644 reporters must first apply the new credit losses standard January 5, 2022. However, where applicable, institutions would include the CECL provision for expected credit losses for the entire year ended December 31, 2021, in the income statement in its report for year-end 2021. The institution would also recognize in its year-end 2021 report a cumulative-effect adjustment to the beginning balance of retained earnings as of January 1, 2021, resulting from the adoption of the new standard as of the beginning of the 2021 fiscal year.

For regulatory reporting purposes, early application of the new credit losses standard will be permitted for all institutions for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years.

Appendix B—U.S. GAAP Changes as a Result of CECL

Introduction of a New Credit Loss Methodology

The new accounting standard developed by the FASB has been designed to replace the existing incurred loss methodology in U.S. GAAP. Under CECL, the allowance for credit losses is an estimate of the expected credit losses on financial assets measured at amortized cost, which is measured using relevant information about past events, including historical credit loss experience on financial assets with similar risk characteristics, current conditions, and reasonable and supportable forecasts that affect the collectability of the remaining cash flows over the contractual term of the financial assets. In concept, an allowance will be created upon the origination or acquisition of a financial asset measured at amortized cost. At subsequent reporting dates, the allowance will be reassessed for a level that is appropriate as determined in accordance with CECL. The allowance for credit losses under CECL is a valuation account, measured as the difference between the financial assets' amortized cost basis and the amount expected to be collected on the financial assets, *i.e.,* lifetime expected credit losses.

Reduction in the Number of Credit Impairment Models

Impairment measurement under existing U.S. GAAP has often been considered complex because it encompasses five credit impairment models for different financial assets.[25] In contrast, CECL introduces a single measurement objective to be applied to all financial assets carried at amortized cost, including loans held-for-investment (HFI) and held-to-maturity (HTM) debt securities. That said, CECL does not specify a single method for measuring expected credit losses; rather, it allows any reasonable approach, as long as the estimate of expected credit losses achieves the objective of the FASB's new accounting standard. Under the existing incurred loss methodology, institutions use various methods, including historical loss rate methods, roll-rate methods, and discounted cash flow methods, to estimate credit losses. CECL allows the continued use of these methods; however, certain changes to these methods will need to be made in order to estimate lifetime expected credit losses.

Purchased Credit-Deteriorated (PCD) Financial Assets

CECL introduces the concept of PCD financial assets, which replaces purchased credit-impaired (PCI) assets under existing U.S. GAAP. The differences in the PCD criteria compared to the existing PCI criteria will result in more purchased loans HFI, HTM debt securities, and available-for-sale (AFS) debt securities being accounted for as PCD financial assets. In contrast to the existing accounting for PCI assets, the new standard requires the estimate of expected credit losses embedded in the purchase price of PCD assets to be estimated and separately recognized as an allowance as of the date of acquisition. This is accomplished by grossing up the purchase price by the amount of expected credit losses at acquisition, rather than being reported as a credit loss expense. As a result, as of acquisition date, the amortized cost basis of a PCD financial asset is equal to the principal balance of the asset less the non-credit discount, rather than equal to the purchase price as is currently recorded for PCI loans.

AFS Debt Securities

The new accounting standard also modifies the existing accounting practices for impairment on AFS debt securities. Under this new standard, institutions will recognize a credit loss on an AFS debt security through an allowance for credit losses, rather than a direct write-down as is required by current U.S. GAAP. The recognized credit loss is limited to the amount by which the amortized cost of the security exceeds fair value. A write-down of an AFS debt security's amortized cost basis to fair value, with any incremental impairment reported in earnings, would be required only if the fair value of an AFS debt security is less than its amortized cost basis and either (1) the institution intends to sell the debt security, or (2) it is more likely than not that the institution will be required to sell the security before recovery of its amortized cost basis.

Although the measurement of credit loss allowances is changing under CECL, the FASB's new accounting standard does not address when a financial asset should be placed in nonaccrual status. Therefore, institutions should continue to apply the agencies' nonaccrual policies that are currently in place. In addition, the FASB retained the existing write-off guidance in U.S. GAAP, which requires an institution to write off a financial asset in the period the asset is deemed uncollectible.

[FR Doc. 2018–26818 Filed 12–11–18; 8:45 am]

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[23] On August 20, 2018, FASB issued a proposed ASU that would amend the transition and effective date provisions in ASU 2016–13 for entities that are not PBEs (non-PBEs) so that the credit losses standard would be effective for non-PBEs for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years.

[24] If the FASB issues a final Accounting Standards Update amending the transition and effective date provisions in ASU 2016–13 as described in footnote 23, a non-PBE with a calendar year fiscal year would first apply the new credit losses standard in its reports for March 31, 2022, if an institution is required to file these report forms.

[25] Current U.S. GAAP includes five different credit impairment models for instruments within the scope of CECL: ASC Subtopic 310–10, Receivables-Overall; ASC Subtopic 450–20, Contingencies-Loss Contingencies; ASC Subtopic 310–30, Receivables-Loans and Debt Securities Acquired with Deteriorated Credit Quality; ASC Subtopic 320–10, Investments-Debt and Equity Securities—Overall; and ASC Subtopic 325–40, Investments-Other-Beneficial Interests in Securitized Financial Assets.

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 (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 31, 2018.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Lincoln Bancorp Employee Stock Ownership Plan, Reinbeck, Iowa, with John Michael Maier, Milwaukee, Wisconsin, as trustee of the ESOP;* to retain shares of Lincoln Bancorp, Reinbeck, Iowa, and thereby indirectly retain Lincoln Savings Bank, Cedar Falls, Iowa.

B. *Federal Reserve Bank of Dallas* (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Evan Katz, Michael Helfer, the Evan H. Katz 2018 Dynasty Trust, the Evan H.*

Katz 2018 Irrevocable Trust, the Lissy Katz Bank 2018 Dynasty Trust, and the Lissy Katz Bank 2018 Irrevocable Trust, all of Houston, Texas, individually and acting in concert; to acquire voting shares of First Community Bancshares, Inc., and thereby indirectly acquire Fort Hood National Bank and First National Bank Texas d/b/a First Convenience Bank, all of Killeen, Texas.

Board of Governors of the Federal Reserve System, December 6, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–26808 Filed 12–11–18; 8:45 am]

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FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Procurement Solicitation Package (FR 1400; OMB No. 7100–0180).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following reports:

Report title: Vendor Database.
Agency form number: FR 1400A.
OMB control number: 7100–0180.
Frequency: On occasion.
Respondents: Businesses.
Estimated number of respondents: 250.
Estimated average hours per response: 1.
Estimated annual burden hours: 250.

Report title: Solicitation Package.
Agency form number: FR 1400B.
OMB control number: 7100–0180.
Frequency: On occasion.
Respondents: Businesses.
Estimated number of respondents: 300.
Estimated average hours per response: 81.
Estimated annual burden hours: 24,300.

Report title: Vendor Risk Management Offeror Questionnaire.
Agency form number: FR 1400C.
OMB control number: 7100–0180.
Frequency: On occasion.
Respondents: Businesses.
Estimated number of respondents: 20.
Estimated average hours per response: 12.
Estimated annual burden hours: 240.

Report title: Subcontracting Report.
Agency form number: FR 1400D.
OMB control number: 7100–0180.
Frequency: Quarterly.
Respondents: Businesses.
Estimated number of respondents: 75.
Estimated average hours per response: 0.5.
Estimated annual burden hours: 150.

General description of reports: The Board is continuously seeking vendors who are interested in doing business with the Board through various outreach events, minority/diversity conferences, meetings, and events targeted to either a specific industry classification of vendors or an upcoming acquisition. Vendors are encouraged during these efforts to register in the Board's database of interested vendors (FR 1400A). In announcing an acquisition, Board staff contacts vendors registered in the Board database via electronic mail or by telephone, and provides the Solicitation Package (FR 1400B) and applicable attachments. The Solicitation, Offer, and Award form (SOA) (Attachment A of FR 1400B) is required with proposals offered in response to a solicitation issued by the Board. The Supplier Information Form (Attachment N of FR 1400B) is required for the entry of a vendor into the Board's contract writing and invoice payment system. As a result of the criteria used by the Board to evaluate proposals, the Solicitation Package may also include the Past Performance Data Sheet and Past Performance Questionnaire (Attachment I of FR 1400B) if past performance is an evaluation factor. Typically, if past performance is considered an evaluation factor, the vendor is asked to submit information on up to three previous contracts whose effort is recent and relevant to the effort required by the solicitation.

Solicitations that require the vendor to process, store, or transmit data from the Board will contain the Vendor Risk Management Offeror Questionnaire (FR 1400C). The questionnaire will be specific to the security controls surrounding the vendor's proposed application that will be used to process, store, or transmit the data. Security controls will be defined and prioritized based on the Federal Information Security Modernization Act of 2014 (FISMA) and the National Institute of Standards and Technology (NIST) Special Publication 800–53 (Security Controls and Assessment Procedures for Federal Information Systems and Organizations). In addition, for solicitations that have subcontracting opportunities and are expected to exceed $100,000 ($300,000 for construction), a non-covered company vendor is required to submit a subcontracting plan in its own format, with its proposal. Then, if the vendor is the chosen vendor and awarded a contract, the vendor is required to provide the quarterly Subcontracting Reports (FR 1400D) to the Board, which shall document the vendor's participation achievement on a cumulative basis. Information from the Subcontracting Report is used to assist the Board in fulfilling the requirement in Section 342(e) of the Dodd-Frank Act that requires the Board to submit to Congress an annual report regarding the fair inclusion of minorities and women in contracting.

Legal authorization and confidentiality: The FR 1400A is voluntary. For prospective vendors that decide to submit proposals to the Board, the FR 1400B, 1400C, and 1400D are required to obtain a benefit, in order to be eligible for the award of a contract.

The FR 1400 is authorized pursuant to sections 10 and 11 of the Federal Reserve Act (''FRA''), and section 342(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank''). Sections 10(3) and 11 of the FRA (12 U.S.C. 243 and 248(l)) grant the Board full authority to manage its buildings and its staff. Section 10(4) of the FRA (12 U.S.C. 244) authorizes the Board to determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid. Therefore, the Board can solicit proposals and seek the information in FR 1400 from prospective vendors.

Additionally, the FR 1400 is authorized by section 342(c) of Dodd-Frank (12 U.S.C. 5452(c)), which requires the Board to develop and implement standards and procedures for the review and evaluation of contract proposals and for hiring service providers that include a component that gives consideration to the diversity of a prospective vendor and the fair inclusion of women and minorities in the workforce of such vendor and any subcontractor.

A vendor generally may request confidential treatment for information submitted during the solicitation process, and the Board will review the request to determine if the data may be kept confidential under exemption 4 of the Freedom of Information Act, which protects from disclosure trade secrets and commercial or financial information (5 U.S.C. 552(b)(4)).

Current actions: On September 28, 2018, the Board published a notice in the **Federal Register** (83 FR 49092) requesting public comment for 60 days on the extension, with revision, of the Procurement Solicitation Package. To better assist the Board's competitive vendor solicitation process, the Board has revised the FR 1400 by (1) reformatting and updating the Solicitation Package, including the Solicitation, Offer, and Award Form (SOA), Supplier Information Form, Past Performance Data Sheet, and Past Performance Questionnaire (FR 1400B); (2) adding the Vendor Risk Management Offeror Questionnaire (FR 1400C); and (3) revising the Subcontracting Report (FR 1400D) to improve clarity and gather specific information in accordance with the Board's subcontracting goals. Lastly, the Board has discontinued the use of the Request for Price Quotation Form (RFP/RFPQ). The purpose of the RFPQ form was absorbed into the FR 1400B. The comment period for this notice expired on November 27, 2018. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, December 6, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2018–26816 Filed 12–11–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1640]

Regulation Q; Regulatory Capital Rules: Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies

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

ACTION: Notice.

SUMMARY: The Board is providing notice of the aggregate global indicator amounts for purposes of a calculation for 2018, which is required under the Board's rule regarding risk-based capital surcharges for global systemically important bank holding companies (GSIB surcharge rule).

DATES: *Applicable:* December 12, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth MacDonald, Manager, (202) 475–6316, or Sean Healey, Supervisory Financial Analyst, (202) 912–4611, Division of Supervision and Regulation; or Mark Buresh, Counsel, (202) 452–5270, or Mary Watkins, Senior Attorney, (202) 452–3722, Legal Division. Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: The Board's GSIB surcharge rule establishes a methodology to identify global systemically important bank holding companies in the United States (GSIBs) based on indicators that are correlated with systemic importance.[1] Under the GSIB surcharge rule, a firm must calculate its GSIB score using a specific formula (Method 1). Method 1 uses five equally weighted categories that are correlated with systemic importance—size, interconnectedness, cross-jurisdictional activity, substitutability, and complexity—and subdivided into twelve systemic indicators. For each indicator, a firm divides its own measure of each systemic indicator by an aggregate global indicator amount. The firm's Method 1 score is the sum of its weighted systemic indicator scores expressed in basis points. The GSIB surcharge for the firm is then the higher of the GSIB surcharge determined under Method 1 and a second method that weights size, interconnectedness, cross-jurisdictional activity, complexity, and a measure of a firm's reliance on wholesale funding (instead of substitutability).[2]

The aggregate global indicator amounts used in the score calculation under Method 1 are based on data collected by the Basel Committee on Banking Supervision (BCBS). The BCBS amounts are determined based on the sum of the systemic indicator scores of the 75 largest U.S. and foreign banking organizations as measured by the BCBS, and any other banking organization that the BCBS includes in its sample total for that year. The BCBS publicly releases these values, denominated in euros, each year. Pursuant to the GSIB surcharge rule, the Board publishes the aggregate global indicator amounts each year as denominated in U.S. dollars using the euro-dollar exchange rate provided by the BCBS.[3] Specifically, the Board multiplied each of the euro-denominated indicator amounts made publicly available by the BCBS by 1.1993, which was the daily euro to U.S. dollar spot rate on December 29, 2017, as published by the European Central Bank (available at *http://www.ecb.europa.eu/stats/eurofxref/index.en.html*).

The aggregate global indicator amounts for purposes of the 2018 Method 1 score calculation under § 217.404(b)(1)(i)(B) of the GSIB surcharge rule are:

[1] *See* 12 CFR 217.402, 217.404.

[2] The second method (Method 2) uses similar inputs to those used in Method 1, but replaces the substitutability category with a measure of a firm's use of short-term wholesale funding. In addition, Method 2 is calibrated differently from Method 1.

[3] 12 CFR 217.404(b)(1)(i)(B); 80 FR 49082, 49086–87 (August 14, 2015). In addition, the Board maintains the GSIB Framework Denominators on its website, available at *https://www.federalreserve.gov/bankinforeg/basel/denominators.htm.*

AGGREGATE GLOBAL INDICATOR AMOUNTS IN U.S. DOLLARS (USD) FOR 2018

Category	Systemic indicator	Aggregate global indicator amount (in USD)
Size	Total exposures	87,573,483,134,570
Interconnectedness	Intra-financial system assets	8,318,335,066,526
	Intra-financial system liabilities	9,730,031,597,197
	Securities outstanding	16,202,976,535,511
Substitutability	Payments activity	2,448,767,065,374,350
	Assets under custody	171,019,921,278,856
	Underwritten transactions in debt and equity markets	7,116,528,205,923
Complexity	Notional amount of over-the-counter (OTC) derivatives	602,822,111,266,476
	Trading and available-for-sale (AFS) securities	3,934,397,357,213
	Level 3 assets	464,078,515,309
Cross-jurisdictional activity	Cross-jurisdictional claims	21,836,288,121,267
	Cross-jurisdictional liabilities	19,161,780,782,485

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

By order of the Board of Governors of the Federal Reserve System, December 6, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–26850 Filed 12–11–18; 8:45 am]

BILLING CODE 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 (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 27, 2018.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Amy Beth Windle Oakley, Cookeville, Tennessee, and Mark Edward Copeland, Ooltewah, Tennessee*; to become members of the Windle/Copeland Family Control Group and thereby retain shares of Overton Financial Services, Inc., and its subsidiary, Union Bank and Trust Company, both of Livingston, Tennessee.

Board of Governors of the Federal Reserve System, December 7, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–26926 Filed 12–11–18; 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 applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 7, 2019.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23219. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *Bay-Vanguard, MHC and BV Financial, Inc., both of Sparrows Point, Maryland*; to become bank holding companies upon their conversion from federally chartered saving and loan holding companies to state chartered bank holding companies. Applicants will retain Bay-Vanguard Bank, Sparrows Point, Maryland.

2. *Bay-Vanguard, MHC and BV Financial, Inc., both of Sparrows Point, Maryland*; to acquire Kopernik Bank, Baltimore, Maryland.

Board of Governors of the Federal Reserve System, December 6, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–26806 Filed 12–11–18; 8:45 am]

BILLING CODE P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Meeting

December 17, 2018, 11:00 a.m. (Telephonic)

Open Session

1. Approval of the minutes for the November 27, 2018 Board Member Meeting
2. Monthly Reports
   (a) Participant Activity
   (b) Legislative Report
   (c) Investment Performance
3. 2018 Internal Audit Update
4. 2019 Proposed Internal Audit Schedule
5. Vendor Risk Management Update

6. Enterprise Risk Management Update

Executive Session

Material covered by 5 U.S.C. (c)(4).

Contact Person for More Information: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: December 7, 2018.

Megan G. Grumbine,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2018–26864 Filed 12–11–18; 8:45 am]

BILLING CODE P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

[Docket No.: 112072018–1111- 05]

Notice of Proposed Subaward Under a Council-Selected Restoration Component Award

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Notice.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) publishes notice of a proposed subaward from the National Oceanic and Atmospheric Administration Restoration Center, Department of Commerce to the National Fish and Wildlife Foundation, a nonprofit organization, for the purpose of implement restoration activities, conduct monitoring to assess restoration outcomes, engage in outreach and educational activities, and develop a hydrologic restoration project inventory for the Tampa Bay watershed. This subaward is in accordance with the Robinson Preserve Wetlands Restoration (Implementation) Award as approved in the Initial Funded Priority List.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *raams_pgmsupport@restorethegulf.gov.*

SUPPLEMENTARY INFORMATION: Section 1321(t)(2)(E)(ii)(III) of the RESTORE Act (33 U.S.C. 1321(t)(2)(E)(ii)(III)) and Treasury's implementing regulation at 31 CFR 34.401(b) require that, for purposes of awards made under the Council-Selected Restoration Component, a State or Federal award recipient may make a grant or subaward to or enter into a cooperative agreement with a nongovernmental entity that equals or exceeds 10 percent of the total amount of the award provided to the State or Federal award recipient only if certain notice requirements are met. Specifically, at least 30 days before the State or Federal award recipient enters into such an agreement, the Council must publish in the **Federal Register** and deliver to specified Congressional Committees the name of the recipient and subrecipient; a brief description of the activity, including its purpose; and the amount of the award. This notice accomplishes the **Federal Register** requirement.

Description of Proposed Action

As specified in the Initial Funded Priority List, which is available on the Council's website at *https://www.restorethegulf.gov/council-selected-restoration-component/funded-priorities-list,* RESTORE Act funds in the amount of $1,790,546 will support the Robinson Preserve Wetlands Restoration (Implementation) Award to the National Oceanic and Atmospheric Administration Restoration Center (NOAA) Restoration Center. NOAA Restoration Center will provide a subaward in the amount of $1,624,625 to National Fish and Wildlife Foundation. to implement restoration activities, conduct monitoring to assess restoration outcomes, engage in outreach and educational activities, and develop a hydrologic restoration project inventory for the Tampa Bay watershed. When completed, the project will provide approximately 57.6 acres of coastal upland habitat and 60.6 acres of wetland, open water sub-tidal, and open freshwater habitats, for a total of 118.2 acres of restored productive habitat.

Keala J. Hughes,

Director of External Affairs & Tribal Relations, Gulf Coast Ecosystem Restoration Council.

[FR Doc. 2018–26906 Filed 12–11–18; 8:45 am]

BILLING CODE 6560–58–P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

[Docket No.: 112072018–1111–04]

Notice of Proposed Subaward Under a Council-Selected Restoration Component Award

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Notice.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) publishes notice of a proposed subaward from the NOAA Restoration Center, Department of Commerce to Ducks Unlimited, Inc., a nonprofit organization, for the purpose of completing planning, design, and engineering for a hydrologic restoration project located at the Bahia Grande Channel F site in the Laguna Atascosa Wildlife Refuge, Cameron County, Texas. Completion of these activities will provide the NOAA Restoration Center with a full understanding of the construction alternatives at this site, complete with environmental impact and benefits metrics. This subaward is in accordance with the Bahia Grande Wetland System Restoration (planning) Award as approved in the Initial Funded Priority List.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *raams_pgmsupport@restorethegulf.gov,* or call Keala J. Hughes at (504) 717–7235.

SUPPLEMENTARY INFORMATION: Section 1321(t)(2)(E)(ii)(III) of the RESTORE Act (33 U.S.C. 1321(t)(2)(E)(ii)(III)) and Treasury's implementing regulation at 31 CFR 34.401(b) require that, for purposes of awards made under the Council-Selected Restoration Component, a State or Federal award recipient may make a grant or subaward to or enter into a cooperative agreement with a nongovernmental entity that equals or exceeds 10 percent of the total amount of the award provided to the State or Federal award recipient only if certain notice requirements are met. Specifically, at least 30 days before the State or Federal award recipient enters into such an agreement, the Council must publish in the **Federal Register** and deliver to specified Congressional Committees the name of the recipient and subrecipient; a brief description of the activity, including its purpose; and the amount of the award. This notice accomplishes the **Federal Register** requirement.

Description of Proposed Action

As specified in the Initial Funded Priority List, which is available on the Council's website at *https://www.restorethegulf.gov/council-selected-restoration-component/funded-priorities-list,* RESTORE Act funds in the amount of $404,318 will support the Bahia Grande Wetland System Restoration (planning) Award to the NOAA Restoration Center. NOAA Restoration Center will provide a subaward in the amount of $313,115.31 to the Ducks Unlimited, Inc. to complete planning, design, and engineering for a hydrologic restoration project located at the Bahia Grande Channel F site in the Laguna Atascosa Wildlife Refuge, Cameron County, Texas.

Keala J. Hughes,

Director of External Affairs & Tribal Relations, Gulf Coast Ecosystem Restoration Council.

[FR Doc. 2018–26901 Filed 12–11–18; 8:45 am]

BILLING CODE 6560–58–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–19–0976; Docket No. CDC–2018–0112]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Million Hearts® Hypertension Control Challenge, a program designed to identify clinical practices and health systems that have been successful in achieving high rates of hypertension control and to develop models for dissemination of successful strategies to control hypertension.

DATES: CDC must receive written comments on or before February 11, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0112 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Million Hearts® Hypertension Control Challenge (OMB No. 0920–0976, exp. 12/31/2019—Revision—National Center for Chronic disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Cardiovascular disease is a leading cause of death for men and women in the United States, among the most costly health problems facing our nation today, and among the most preventable. Heart disease and stroke also contribute significantly to disability. High blood pressure, also known as hypertension, is one of the leading causes of heart disease and stroke. Currently, about 75 million American adults have high blood pressure but only about half (48%) have adequately controlled blood pressure. The costs of hypertension are estimated at $48.9 billion annually in direct medical costs.

In September 2011, CDC launched the Million Hearts® initiative to prevent one million heart attacks and strokes by 2017. In January 2018, CDC launched Million Hearts® 2022 to continue to prevent one million heart attacks, strokes, and related health conditions. In order to achieve this goal, at least 10 million more Americans must have their blood pressure under control. Million Hearts® is working to reach this goal through the promotion of clinical practices that are effective in increasing blood pressure control among patient populations. There is scientific evidence that provides general guidance on the types of system-based changes to clinical practice that can improve patient blood pressure control, but additional information is needed to fully understand implementation practices so that they can be shared and promoted.

In 2013, CDC launched the Million Hearts® Hypertension Control Challenge, authorized by Public Law 111–358, the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education and Science Reauthorization Act of 2010 (COMPETES Act). The Challenge is designed to help CDC (1) identify clinical practices and health systems that have been successful in achieving high rates of hypertension control, and (2) develop models for dissemination. The Challenge is open to single practice providers, group practice providers, and healthcare systems. Providers whose hypertensive population achieves exemplary levels of hypertension control are recognized as Million Hearts® Hypertension Control Champions.

Interested clinicians or practices complete a web-based application form which collects the minimum amount of data needed to demonstrate hypertension control among their adult patients, including: (a) Two point-in-time measures of the clinical hypertension control rate for the patient population, (b) the size of the clinic population served, (c) a brief description of the characteristics of the patient population served and geographic location, and (d) a description of the sustainable systems and strategies adopted to achieve and maintain hypertension control rates. The estimated burden for completing the application form is 30 minutes. CDC scientists or contractors review each

application form and rank applications by reported hypertension control rate.

In the second phase of assessment, applicants with the highest preliminary scores are asked to participate in a two-hour data verification and validation process. The applicant reviews the application form with a reviewer, describes how information was obtained from the providers', practices', or healthcare systems' electronic records, chart reviews, or other sources, and reviews the methodology used to calculate the reported hypertension control rate. Data verification and validation is conducted to ensure that all applicants meet eligibility criteria and assure accuracy of their reported hypertension control rate according to a standardized method. Applicants must have achieved a hypertension control rate of at least 80% among their adult patients aged 18–85 years with hypertension.

Finalists who pass the data verification and validation process and background check will be reviewed by a CDC panel of judges to determine the Champion status. Several Champions will be asked to participate in a one-hour, semi-structured interview and provide detailed information about the patient population served, the geographic region served, and the strategies employed by the practice or health system to achieve exemplary rates of hypertension control, including barriers and facilitators for those strategies. Based on the information collected for Challenges in 2013 through 2017, CDC recognized a total of 83 public and private health care practices and systems as Million Hearts® Hypertension Control Champions. The Champions are announced roughly annually, approximately six months after the Challenge application period ends. The current OMB approval for information collection expires December 31, 2019.

CDC plans to continue the Million Hearts® Hypertension Control Challenge through 2022 with revisions. The 2020 Challenge is planned to launch in February 2020, coinciding with American Heart Month. The application period will be open for approximately 45–60 days, with recognition of the 2020 Champions in the fall of 2020. A similar calendar year schedule is planned for 2021 and 2022. Revision for 2020, 2021, and 2022 includes a reduction in the estimated number of respondents. During the period of this Renewal request, on an annual basis, CDC estimates that information will be collected from up to 200 applicants using the application form, at most 40 data verifications, and at most 35 semi-structured interviews. There is an overall reduction in estimated annualized burden hours.

The overall goal of the Million Hearts® initiative is to prevent one million heart attacks and strokes, and controlling hypertension is one focus of the initiative. CDC will use the information collected through the Million Hearts® Hypertension Control Challenge to increase widespread attention to hypertension at the clinical practice level, improve understanding of successful and sustainable implementation strategies at the practice or health system level, bring visibility to organizations that invest in hypertension control, and motivate individual practices to strengthen their hypertension control efforts. Information collected through the

Million Hearts® Hypertension Control Challenge will link success in clinical outcomes of hypertension control with information about strategies that can be used to achieve similar favorable outcomes so that the strategies can be replicated by other providers and health care systems.

OMB approval for a revision is requested for three years. CDC estimates that up to 200 applicants will submit an application covered by this information collection each year. It is estimated that information collection activities will total 215 burden hours per year. This represents a decrease in the estimated annualized burden hours from 370 hours to 215 hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Physicians, Practices, and healthcare systems.	Million Hearts® Hypertension Control Champion Application form.	200	1	30/60	100
Finalists	Data Verification Form	40	1	2	80
Champions	Semi-structured interview guide	35	1	1	35
Total					215

Jeffrey M. Zirger,

Acting Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2018–26876 Filed 12–11–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Administration on Intellectual and Developmental Disabilities, President's Committee for People With Intellectual Disabilities

AGENCY: Administration for Community Living, HHS.

ACTION: Notice of rescheduled meeting due to the closure of federal offices on December 5, 2018.

SUMMARY: The President's Committee for People with Intellectual Disabilities (PCPID) will host a webinar/conference call for its members to discuss the potential topics of the Committee's 2019 Report to the President. All the PCPID meetings, in any format, are open to the public. This virtual meeting will be conducted in a discussion format.

DATES: *Webinar/Conference Call:* Wednesday, December 12, 2018 from 9:00 a.m. to 10:00 a.m. (EST).

FOR FURTHER INFORMATION CONTACT: For further information and accommodations needs, please contact Ms. Allison Cruz, Director, Office of Innovation, 330 C Street SW, Switzer Building, Room 1114, Washington, DC

20201. Telephone: 202–795–7334. Fax: 202–795–7334. Email: *allison.cruz@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this virtual meeting is to discuss the Committee's preparation of the 2019 Report to the President, including its content and format, and related data collection and analysis required to complete the writing of the Report. This meeting was originally scheduled for December 5 from 9:00–10:00 a.m. (EST). This meeting is rescheduled to December 12 from 9:00–10:00 a.m. (EST) due to the closure of Federal offices on December 5 and to allow for the call to occur before the end of year.

Agenda: The Committee will discuss the preparation of the PCPID 2019 Report to the President, including its content and format, and related data collection and analysis required to complete the writing of the Report.

Webinar/Conference Call: The webinar/conference call is scheduled for Wednesday, December 12, 2018, 9:00 a.m. to 10:00 a.m. (EST) and may end early if discussions are finished.

Instructions to Participate in the Webinar/Conference Call on Wednesday, December 12, 2018: Please dial: (888) 949–2790; Pass Code: 1989852.

Background Information on the Committee: The PCPID acts in an advisory capacity to the President and the Secretary of Health and Human Services on a broad range of topics relating to programs, services and support for individuals with intellectual disabilities. The PCPID executive order stipulates that the Committee shall: (1) Provide such advice concerning intellectual disabilities as the President or the Secretary of Health and Human Services may request; and (2) provide advice to the President concerning the following for people with intellectual disabilities: (A) Expanding employment opportunities; (B) connecting people to services; (C) supporting families and caregivers; (D) strengthening the networks; and (E) protecting rights and preventing abuse.

Dated: December 6, 2018.

Julie Hocker,

Commissioner, Administration on Disabilities (AoD).

[FR Doc. 2018–26857 Filed 12–11–18; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–4267]

Biomarker Qualification: Evidentiary Framework; Draft Guidance for Industry and Food and Drug Administration Staff; 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 a draft guidance for industry and FDA staff entitled ''Biomarker Qualification: Evidentiary Framework.'' This draft guidance provides recommendations on general considerations to address when developing a biomarker for qualification under the 21st Century Cures Act (Cures Act), enacted on December 13, 2016, that added a new section to the Federal Food, Drug, and Cosmetic Act (FD&C Act). Qualification of a biomarker is a determination that within the stated context of use, the biomarker can be relied on to have a specific interpretation and application in drug development and regulatory review.

DATES: Submit either electronic or written comments on the draft guidance by February 11, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

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

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2018–D–4267 for ''Biomarker Qualification: Evidentiary Framework; Draft Guidance for Industry and FDA Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/*

fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

Submit written requests for single copies of the 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 document.

FOR FURTHER INFORMATION CONTACT: Chris Leptak, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6461, Silver Spring, MD 20993–0002, 301–796–0017.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry and FDA staff entitled ''Biomarker Qualification: Evidentiary Framework.'' This draft guidance provides recommendations on general considerations to address when developing a biomarker for qualification under the Cures Act, enacted on December 13, 2016, that added a new section 507, Qualification of Drug Development Tools, to the FD&C Act (21 U.S.C. 357).[1] This guidance discusses the evidentiary framework that should be used to support biomarker qualification, as that term is now used in section 507 of the FD&C Act, and it was informed by public workshops that predated the Cures Act. Specifically, this guidance describes the needs assessment, context of use, and benefit-risk considerations, and how these considerations can relate to determining the type and level of evidence to support qualification of a biomarker. This guidance also addresses general statistical and clinical considerations related to the correlation between the biomarker and the outcome of interest, as well as general analytical considerations related to the performance characteristics of the biomarker test.

Historically, biomarkers gained acceptance for use in drug development after evidence from scientific and medical communities accumulated over time, leading to the recognition of the role and value of the biomarker in decision making. This evidence was considered as part of drug-specific development efforts, and there was no formal regulatory process to assess the broader utility of the biomarker independent from its use in a specific drug program. Even after the Center for Drug Evaluation and Research established the legacy (pre-Cures Act) Biomarker Qualification Program in 2007, progress in the development of biomarkers and their application in drug development has been hampered by the lack of a clear, predictable, and specific regulatory framework for the evidence sufficient to support regulatory decision making using biomarkers. This guidance is an additional step towards informing future guidances that will specifically address this need, the Cures Act requirements, and commitments from the Prescription Drug User Fee Reauthorization Performance Goals and Procedures Fiscal Years 2018 through 2022 (PDUFA VI goals letter) [2].

This guidance was informed by several public workshops [3] that discussed the science to support biomarker qualification; these workshops convened before the enactment of the Cures Act. Development of this guidance was also greatly facilitated by the efforts from the biomarker development community—including FDA, National Institutes of Health (NIH), industry, academia, patient groups, and the nonprofit sector—that developed an October 2016 white paper describing a Framework for Defining Evidentiary Criteria for Biomarker Qualification.[4] In addition to considering public comments received regarding this guidance, FDA anticipates that the Agency will incorporate additional information required under the Cures Act and discussed in the PDUFA VI goals letter in a subsequent revised draft version of this guidance. Ultimately, FDA anticipates that a future revised draft guidance on this topic will meet the statutory requirement for guidance on a conceptual framework describing appropriate standards and scientific approaches to support the development of biomarkers as described in section 3011(b)(1)(A) of the Cures Act and meet the commitment in section (1)(J)(6)(d) of the PDUFA VI goals letter related to publishing a draft guidance on general evidentiary standards for biomarker qualification. As part of FDA's efforts to delineate the conceptual framework to support biomarker qualification and the general evidentiary standards for biomarker qualification, FDA also anticipates that subsequent guidance on biomarker qualification will address specific aspects of evidentiary considerations (*e.g.,* statistical, analytical) in greater detail. This 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 ''Biomarker Qualification: Evidentiary Framework.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

III. Electronic Access

[1] Section 507 of the FD&C Act was added by section 3011(a) of the Cures Act (Pub. L. 114–255).

[2] The PDUFA VI goals letter is available at: *https://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM511438.pdf.*

[3] Workshops convened to discuss the science to support biomarker qualification included: Institute of Medicine Workshop on Biomarker Qualification (2009), FDA co-sponsored Biomarkers Workshop with Howard Hughes Medical Institute (2013), FDA co-sponsored Brookings meeting on Advancing the Use of Biomarkers and Pharmacogenomics (2014), FDA co-sponsored workshop with M–CERSI and the Critical Path Institute on Evidentiary Considerations for Integration of Biomarkers in Drug Development (2015), NIH–FDA Workshop on Biomarker Glossary of Terms (2015), the National Biomarker Development Alliance's Workshop on Collaboratively Building a Foundation for FDA Biomarker Qualification (2015), and Foundation for the NIH–FDA Workshop on Developing an Evidentiary Criteria Framework for Safety Biomarkers Qualification (2016).

[4] Biomarkers Consortium Evidentiary Standards Writing Group: Framework for Defining Evidentiary Criteria for Biomarker Qualification. Final version October 20, 2016. Available at: *https://fnih.org/sites/default/files/final/pdf/Evidentiary%20Criteria%20Framework%20Final%20Version%20Oct%2020%202016.pdf.*

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: December 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–26900 Filed 12–11–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–4750]

The ''Deemed to be a License'' Provision of the BPCI Act: Questions and Answers; Draft Guidance for Industry; Availability; Request for Comments on Preliminary List of Affected Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''The 'Deemed to be a License' Provision of the BPCI Act: Questions and Answers.'' This draft guidance is intended to provide answers to common questions about FDA's interpretation of the statutory provision under which an application for a biological product approved under the Federal Food, Drug, and Cosmetic Act (FD&C Act) as of March 23, 2020, will be deemed to be a license for the biological product under the Public Health Service Act (PHS Act) on March 23, 2020. This guidance also describes FDA's compliance policy for the labeling of biological products that will be the subject of deemed biologics license applications (BLAs). This guidance is intended to facilitate planning for the March 23, 2020, transition date and provide further clarity regarding the Agency's interpretation of this statutory provision. FDA also invites comment on the preliminary list of approved new drug applications (NDAs) for biological products under the FD&C Act that will be deemed to be BLAs on the transition date.

DATES: Submit either electronic or written comments on the draft guidance by February 11, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

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

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2015–D–4750 for ''The 'Deemed to be a License' Provision of the BPCI Act: Questions and Answers; Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

Submit written requests for single copies of this 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; or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, 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 document.

FOR FURTHER INFORMATION CONTACT: Janice Weiner, Center for Drug Evaluation and Research, Food and

Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6270, Silver Spring, MD 20993–0002, 301–796–3475, *Janice.Weiner@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7268, Silver Spring, MD 20993–0002, 240–402–7911, *Stephen.Ripley@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''The 'Deemed to be a License' Provision of the BPCI Act: Questions and Answers.'' This draft guidance is intended to provide answers to common questions about FDA's interpretation of the ''transition'' provision of the Biologics Price Competition and Innovation Act of 2009 (BPCI Act) under which an application for a biological product approved under section 505 of the FD&C Act (21 U.S.C. 355) as of March 23, 2020, will be deemed to be a license for the biological product under section 351 of the PHS Act (42 U.S.C. 262) on March 23, 2020 (''the transition date''). This guidance also describes FDA's compliance policy for the labeling of biological products that will be the subject of deemed BLAs. This guidance is intended to facilitate planning for the transition date and provide further clarity regarding the Agency's interpretation of this statutory provision.

Although the majority of therapeutic biological products have been licensed under section 351 of the PHS Act, some protein products historically have been approved under section 505 of the FD&C Act. On March 23, 2010, the BPCI Act was enacted as part of the Patient Protection and Affordable Care Act (Pub. L. 111–148). The BPCI Act clarified the statutory authority under which certain protein products will be regulated by amending the definition of a ''biological product'' in section 351(i) of the PHS Act to include a ''protein (except any chemically synthesized polypeptide),'' and describing procedures for submission of a marketing application for certain ''biological products.'' FDA has previously stated its interpretation of the statutory terms ''protein'' and ''chemically synthesized polypeptide'' in the amended definition of ''biological product'' (see FDA's draft guidance for industry entitled ''New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 2),'' available on FDA's website at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.* Elsewhere in this issue of the **Federal Register**, FDA also has issued a proposed rule to amend its regulation that defines ''biological product'' to incorporate changes made by the BPCI Act, and to provide its interpretation of the statutory terms ''protein'' and ''chemically synthesized polypeptide.'' When final, this regulation will codify FDA's interpretation of these terms.

The BPCI Act requires that a marketing application for a ''biological product'' (that previously could have been submitted under section 505 of the FD&C Act) must be submitted under section 351 of the PHS Act; this requirement is subject to certain exceptions during a 10-year transition period ending on March 23, 2020 (see section 7002(e)(1) to (3) and (e)(5) of the BPCI Act). On March 23, 2020, an approved application for a biological product under section 505 of the FD&C Act shall be deemed to be a license for the biological product under section 351 of the PHS Act (see section 7002(e)(4) of the BPCI Act).

In the **Federal Register** of March 14, 2016 (81 FR 13373), FDA announced the availability of a draft guidance on ''Implementation of the 'Deemed to be a License' Provision of the Biologics Price Competition and Innovation Act of 2009'' (Transition Policy Draft Guidance). In the Transition Policy Draft Guidance, FDA explains that because the BPCI Act expressly provides that an application that is approved on March 23, 2020, shall be deemed to be a license, FDA interprets section 7002(e) of the BPCI Act to mean that the Agency will not approve any application under section 505 of the FD&C Act for a biological product subject to the transition provisions that is pending or tentatively approved after March 23, 2020. Such an application may, for example, be withdrawn and submitted under section 351(a) or 351(k) of the PHS Act, as appropriate. FDA also provides recommendations to minimize the impact on development programs for any proposed protein products intended for submission under section 505 of the FD&C Act that may not be able to receive final approval by March 23, 2020.

FDA received several comments on the Transition Policy Draft Guidance, including comments requesting that FDA provide additional information on administrative procedures and regulatory issues that would facilitate planning for the transition date. For example, commenters requested additional information on FDA expectations with respect to certain requirements for biological products regulated under the PHS Act that differ from requirements for drug products regulated under the FD&C Act. Commenters also requested information on FDA's approach to certain procedural issues, such as: (1) The transition of biological products from FDA's ''Approved Drug Products with Therapeutic Equivalence Evaluations'' (the Orange Book) to FDA's ''Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations'' (the Purple Book); (2) whether an approved NDA will be deemed to be a license under section 351(a) or 351(k) of the PHS Act; (3) how BLA numbers will be assigned; and (4) user fee issues. This Q&A draft guidance is intended to address these comments and provide additional information to facilitate planning for the transition date.

We invite comment on the Q&A draft guidance, including additional topics that may be helpful for the Agency to address in connection with the transition date. In particular, we invite comment on the compliance policy for the labeling of biological products that are the subject of deemed BLAs and the length of the compliance period. In addition, we invite comment on the factors that FDA should consider in determining whether a combination product composed of a biological product constituent part and a drug constituent part will be subject to the transition provision.

We also invite comment on the preliminary list of approved applications for biological products under the FD&C Act that will be affected by the transition provision (available on FDA's website at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/default.htm*). If an application holder or other person believes that an approved NDA should be added to the list or should not be included on the list, the application holder or other person should submit a comment to the public docket established for this Q&A draft guidance and the list.

This 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 'Deemed to be a License' Provision of the BPCI Act: Questions and Answers.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes

and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in 21 CFR part 314 has been approved under OMB control number 0910–0001; the collection of information in 21 CFR parts 601 and 610 has been approved under OMB control number 0910–0338; the collection of information in 21 CFR 600.80 through 600.90 has been approved under OMB control number 0910–0308; and the collection of information in 21 CFR 201.56, 201.57, and 201.80 has been approved under OMB control number 0910–0572. In addition, the collections of information for applications submitted under section 351(k) of the PHS Act (42 U.S.C. 262(k)) have been approved under OMB control number 0910–0719.

III. 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: December 6, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–26855 Filed 12–11–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–4750]

Interpretation of the ''Deemed To Be a License'' Provision of the Biologics Price Competition and Innovation Act of 2009; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Interpretation of the 'Deemed To Be a License' Provision of the Biologics Price Competition and Innovation Act of 2009.'' This guidance describes FDA's interpretation of the statutory provision under which an application for a biological product approved under the Federal Food, Drug, and Cosmetic Act (FD&C Act) as of March 23, 2020, will be deemed to be a license for the biological product under the Public Health Service Act (PHS Act) on March 23, 2020. Specifically, this guidance describes FDA's interpretation of the ''deemed to be a license'' provision of the Biologics Price Competition and Innovation Act of 2009 (BPCI Act) for biological products that are approved under the FD&C Act as of March 23, 2020. This guidance also provides recommendations to sponsors of proposed protein products intended for submission in an application that may not receive final approval under the FD&C Act on or before March 23, 2020, to facilitate alignment of product development plans with FDA's interpretation of the transition provision of the BPCI Act.

DATES: The announcement of the guidance is published in the **Federal Register** on December 12, 2018.

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*.
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Written/Paper Submissions

Submit written/paper submissions as follows:

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- 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–2015–D–4750 for ''Interpretation of the 'Deemed To Be a License' Provision of the Biologics Price Competition and Innovation Act of 2009; Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the

''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

Submit written requests for single copies of this 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; or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, 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 guidance document.

FOR FURTHER INFORMATION CONTACT: Janice Weiner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6270, Silver Spring, MD 20993–0002, 301–796–3475; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Interpretation of the 'Deemed To Be a License' Provision of the Biologics Price Competition and Innovation Act of 2009.''

This guidance describes FDA's interpretation of the provision of the BPCI Act under which an application for a biological product approved under section 505 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355) as of March 23, 2020, will be deemed to be a license for the biological product under section 351 of the PHS Act (42 U.S.C. 262) on March 23, 2020. Specifically, this guidance describes FDA's interpretation of the ''deemed to be a license'' provision in section 7002(e) of the BPCI Act for biological products that are approved under section 505 of the FD&C Act as of March 23, 2020 (the transition date). This guidance also provides recommendations to sponsors of proposed protein products intended for submission in an application that may not receive final approval under section 505 of the FD&C Act on or before March 23, 2020, to facilitate alignment of product development plans with FDA's interpretation of section 7002(e) of the BPCI Act.

Although the majority of therapeutic biological products have been licensed under section 351 of the PHS Act, some protein products historically have been approved under section 505 of the FD&C Act. On March 23, 2010, the BPCI Act was enacted as part of the Patient Protection and Affordable Care Act (Pub. L. 111–148). The BPCI Act clarified the statutory authority under which certain protein products will be regulated by amending the definition of a ''biological product'' in section 351(i) of the PHS Act to include a ''protein (except any chemically synthesized polypeptide),'' and describing procedures for submission of a marketing application for a ''biological product.'' FDA previously stated its interpretation of the statutory terms ''protein'' and ''chemically synthesized polypeptide'' in the amended definition of ''biological product'' (see FDA's draft guidance for industry entitled ''New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 2),'' available on FDA's website at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*). Elsewhere in this issue of the **Federal Register**, FDA also has issued a proposed rule to amend its regulation that defines ''biological product'' to incorporate changes made by the BPCI Act, and to provide its interpretation of the statutory terms ''protein'' and ''chemically synthesized polypeptide.'' When final, this regulation will codify FDA's interpretation of these terms.

The BPCI Act requires that a marketing application for a ''biological product'' (that previously could have been submitted under section 505 of the FD&C Act) must be submitted under section 351 of the PHS Act; this requirement is subject to certain exceptions during a 10-year transition period ending on March 23, 2020 (see section 7002(e)(1)–(3) and (e)(5) of the BPCI Act). On March 23, 2020, an approved application for a biological product under section 505 of the FD&C Act shall be deemed to be a license for the biological product under section 351 of the PHS Act (see section 7002(e)(4) of the BPCI Act). Among other things, while section 7002(e)(4) of the BPCI Act explicitly provides that an approved application under section 505 of the FD&C Act shall be deemed to be a license on March 23, 2020, the statute does not provide a means for deeming an approved new drug application (NDA) to be an approved biologics license application (BLA) prior to, or after, the transition date. Therefore, FDA interprets section 7002(e) of the BPCI Act to plainly mean that, on March 23, 2020, only approved NDAs will be deemed to be BLAs. After March 23, 2020, the Agency will not approve any application submitted under section 505 of the FD&C Act for a biological product subject to the transition provision that is pending or tentatively approved. Such an application may, for example, be withdrawn and submitted under section 351(a) or 351(k) of the PHS Act, as appropriate. In the final guidance, FDA provides recommendations to minimize the impact on development programs for any proposed biological products intended for submission under section 505 of the FD&C Act that may not be able to receive final approval by March 23, 2020.

In the **Federal Register** of March 14, 2016 (81 FR 13373), FDA announced the availability of the draft of this guidance. FDA received several comments on the draft guidance, and those comments were considered as the guidance was finalized. This final guidance explains that FDA interprets section 7002(e) of the BPCI Act and section 351 of the PHS Act to mean that an approved NDA for a biological product that will be deemed to be ''licensed'' under section 351(a) of the PHS Act on March 23, 2020, can be a reference product for a proposed biosimilar product or a proposed interchangeable product (see section 351(i)(4) of the PHS Act). However, a biological product that was first approved in an NDA under section 505 of the FD&C Act and deemed ''licensed'' under section 351(a) of the PHS Act on March 23, 2020, will not have been ''first licensed under subsection (a)'' for purposes of section 351(k)(7) of the PHS Act. Thus, such a biological product will not be eligible for exclusivity under section 351(k)(7)(A) and (B) of the PHS Act. Moreover, FDA interprets the limitations on eligibility for reference product exclusivity in section 351(k)(7)(C) of the PHS Act to apply to any reference product. The guidance also clarifies the Agency's approach to supplements submitted to an approved NDA for a biological product before March 23, 2020, that are pending on the transition date.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Interpretation of the 'Deemed To Be a License' Provision of the Biologics Price Competition and Innovation Act of 2009.'' It does not

establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in 21 CFR part 312 has been approved under OMB control number 0910–0014; the collection of information in 21 CFR part 314 has been approved under OMB control number 0910–0001; the collection of information in 21 CFR part 601 has been approved under OMB control number 0910–0338; and the collection of information for applications submitted under section 351(k) of the PHS Act has been approved under OMB control number 0910–0719; the collection of information in FDA's guidance for industry entitled ''Formal Meetings Between the FDA and Biosimilar Biological Product Sponsors or Applicants'' has been approved under OMB control number 0910–0802; and the collection of information in FDA's guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products'' has been approved under OMB control number 0910–0429.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: December 6, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–26854 Filed 12–11–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0611]

New and Revised Draft Q&As on Biosimilar Development and the Biologics Price Competition and Innovation Act (Revision 2); Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 2).'' The question and answer (Q&A) format is intended to inform prospective applicants and facilitate the development of proposed biosimilars and proposed interchangeable biosimilars, as well as to describe FDA's interpretation of certain statutory requirements added by the Biologics Price Competition and Innovation Act of 2009 (BPCI Act). This draft guidance document revises the draft guidance document entitled ''Biosimilars: Additional Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009,'' issued May 13, 2015, to provide new and revised Q&As.

DATES: Submit either electronic or written comments on the draft guidance by February 11, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

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

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2011–D–0611 for ''New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 2); Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For

more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

Submit written requests for single copies of this 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, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, 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 document.

FOR FURTHER INFORMATION CONTACT: Sandra Benton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 6522, Silver Spring, MD 20993, 301–796–1042, or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg., 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 2).'' The Q&A format is intended to inform prospective applicants and facilitate the development of proposed biosimilars and proposed interchangeable biosimilars, as well as to describe FDA's interpretation of certain statutory requirements added by the BPCI Act.

The BPCI Act amended the Public Health Service Act (PHS Act) and other statutes to create an abbreviated licensure pathway in section 351(k) of the PHS Act (42 U.S.C. 262(k)) for biological products shown to be biosimilar to, or interchangeable with, an FDA-licensed biological reference product (see sections 7001 through 7003 of the Patient Protection and Affordable Care Act (Pub. L. 111–148)). FDA believes that guidance for industry that provides answers to commonly asked questions regarding FDA's interpretation of the BPCI Act will enhance transparency and facilitate the development and approval of biosimilar and interchangeable products. FDA intends to update this guidance to include additional Q&As as appropriate.

This draft guidance is a companion to the final guidance entitled ''Questions and Answers on Biosimilar Development and the BPCI Act.'' In this pair of guidance documents, FDA issues each Q&A in draft form in this draft guidance, receives comments on the draft Q&A, and, as appropriate, moves the Q&A to the final guidance, after reviewing comments and incorporating suggested changes to the Q&A, when appropriate. Thus, this draft guidance contains Q&As distributed for comment purposes only and includes new Q&As, as well as revisions to Q&As that appeared in previous versions of the draft or final guidance documents. The final guidance contains Q&As that have been through the public comment process and reflects FDA's current thinking on the topics described. A Q&A may be withdrawn and removed from the Q&A guidance documents if, for instance, the issue addressed in the Q&A has been addressed in another FDA guidance document.

FDA has maintained the original numbering of the Q&As used in the April 2015 final guidance (''Biosimilars: Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009'') and the May 2015 draft guidance (''Biosimilars: Additional Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009'').

TABLE 1—STATUS OF DRAFT GUIDANCE Q&AS AND FINAL GUIDANCE Q&AS

Q&A category	Q&A Nos.	Previous guidance location	Current guidance location
Part I. Biosimilarity or Interchangeability	Q.I.1	Final	Final.
	Q.I.2	Final	Final.
	Q.I.3	Final	Final.
	Q.I.4	Final	Final.
	Q.I.5	Final	Final.
	Q.I.6	Final	Final.
	Q.I.7	Final	Final.
	Q.I.8	Final	Final.
	Q.I.9	Draft	Final.
	Q.I.10	Draft	Final.
	Q.I.11	Final	Withdrawn.
	Q.I.12	Final	Draft.
	Q.I.13	Draft	Final.
	Q.I.14	Draft	Final.
	Q.I.15	Final	Final.
	Q.I.16	Draft	Draft.
	Q.I.17	Draft	Final.
	Q.I.18	Draft	Final.
	Q.I.19	Draft	Final.
	Q.I.20		Draft.
	Q.I.21		Draft.
	Q.I.22		Draft.
	Q.I.23		Draft.
	Q.I.24		Draft.

TABLE 1—STATUS OF DRAFT GUIDANCE Q&AS AND FINAL GUIDANCE Q&AS—Continued

Q&A category	Q&A Nos.	Previous guidance location	Current guidance location
Part II. Provisions Related to Requirements to Submit a Biologics License Application (BLA) for a ''Biological Product''.	Q.II.1	Final	Draft.
	Q.II.2	Final	Final.
	Q.II.3	Draft	Final.
Part III. Exclusivity	Q.III.1	Draft	Final.
	Q.III.2	Final	Final.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The Q&As in this draft guidance, when finalized, will appear in the final guidance, and the final guidance will represent the current thinking of FDA on the Q&As posed in the ''New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 2).'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

FDA is announcing, in a separate document published elsewhere in this issue of the **Federal Register**, the availability of the guidance for industry entitled ''Questions and Answers on Biosimilar Development and the BPCI Act.''

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 for submission of an investigational new drug application have been approved under OMB control number 0910–0014. The collections of information in 21 CFR 314.50 for submission of a new drug application have been approved under OMB control number 0910–0001. The collections of information in section 351(a) of the PHS Act and part 601 (21 CFR part 601) for submission of a BLA have been approved under OMB control number 0910–0338. The collections of information in section 351(k) of the PHS Act and part 601 for submission of a BLA have been approved under OMB control number 0910–0719. The collections of information for submission of a meeting package to the appropriate review division with the meeting request as described in the draft guidance for industry ''Formal Meetings Between the FDA and Sponsors or Applicants of BsUFA Products'' have been approved under OMB control number 0910–0802.

III. 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: December 6, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–26852 Filed 12–11–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0611]

Biosimilars: Questions and Answers on Biosimilar Development and the Biologics Price Competition and Innovation Act of 2009; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Questions and Answers on Biosimilar Development and the BPCI Act.'' The question and answer (Q&A) format is intended to inform prospective applicants and facilitate the development of proposed biosimilars and proposed interchangeable biosimilars, as well as to describe FDA's interpretation of certain statutory requirements added by the Biologics Price Competition and Innovation Act of 2009 (BPCI Act). This guidance document revises the final guidance document entitled ''Biosimilars: Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009'' issued April 28, 2015.

DATES: The announcement of the guidance is published in the **Federal Register** on December 12, 2018.

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:

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- 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–2011–D–0611 for ''Questions and Answers on Biosimilar Development and the BPCI Act; Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

Submit written requests for single copies of this 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, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, 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 guidance document.

FOR FURTHER INFORMATION CONTACT: Sandra Benton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 6522, Silver Spring, MD 20993, 301–796–1042, or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Questions and Answers on Biosimilar Development and the BPCI Act.'' The Q&A format is intended to inform prospective applicants and facilitate the development of proposed biosimilars and proposed interchangeable biosimilars, as well as to describe FDA's interpretation of certain statutory requirements added by the BPCI Act.

The BPCI Act amended the Public Health Service Act (PHS Act) and other statutes to create an abbreviated licensure pathway in section 351(k) of the PHS Act for biological products shown to be biosimilar to, or interchangeable with, an FDA-licensed biological reference product (see sections 7001 through 7003 of the Patient Protection and Affordable Care Act (Pub. L. 111–148)). FDA believes that guidance for industry that provides answers to commonly asked questions regarding FDA's interpretation of the BPCI Act will enhance transparency and facilitate the development and approval of biosimilar and interchangeable products. FDA intends to update this guidance document to include additional Q&As as appropriate.

This final guidance document is a companion to the draft guidance document entitled ''New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 2).'' In this pair of guidance documents, FDA issues each Q&A in draft form in the draft guidance document, receives comments on the draft Q&A, and, as appropriate, moves the Q&A to this final guidance document, after reviewing comments and incorporating suggested changes to the Q&A, when appropriate. This final guidance document contains Q&As that have been through the public comment process and reflects FDA's current thinking on the topics described. This guidance document revises the final guidance document entitled ''Biosimilars: Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009'' to clarify and update certain Q&As and to add new Q&As. For certain Q&As, FDA has updated the Q&A by referring the reader to a separate guidance document that provides additional information on the topic. In addition, a Q&A may be withdrawn and removed from the Q&A guidance documents if, for instance, the issue addressed in the Q&A has been addressed in a separate FDA guidance document. For example, Q&A I.11 has been withdrawn as the issues addressed in that question are addressed in the guidance for industry entitled ''Scientific Considerations in Demonstrating Biosimilarity to a Reference Product.''

FDA has maintained the original numbering of the Q&As used in the April 2015 final guidance document (''Biosimilars: Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009'') and May 2015 draft guidance document (''Biosimilars: Additional Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009'').

TABLE 1—STATUS OF DRAFT GUIDANCE Q&AS AND FINAL GUIDANCE Q&AS

Q&A category	Q&A Nos.	Previous guidance location	Current guidance location
Part I. Biosimilarity or Interchangeability	Q.I.1	Final	Final

TABLE 1—STATUS OF DRAFT GUIDANCE Q&AS AND FINAL GUIDANCE Q&AS—Continued

Q&A category	Q&A Nos.	Previous guidance location	Current guidance location
	Q.I.2	Final	Final.
	Q.I.3	Final	Final.
	Q.I.4	Final	Final.
	Q.I.5	Final	Final.
	Q.I.6	Final	Final.
	Q.I.7	Final	Final.
	Q.I.8	Final	Final.
	Q.I.9	Draft	Final.
	Q.I.10	Draft	Final.
	Q.I.11	Final	Withdrawn.
	Q.I.12	Final	Draft.
	Q.I.13	Draft	Final.
	Q.I.14	Draft	Final.
	Q.I.15	Final	Final.
	Q.I.16	Draft	Draft.
	Q.I.17	Draft	Final.
	Q.I.18	Draft	Final.
	Q.I.19	Draft	Final.
	Q.I.20		Draft.
	Q.I.21		Draft.
	Q.I.22		Draft.
	Q.I.23		Draft.
	Q.I.24		Draft.
Part II. Provisions Related to Requirements to Submit a Biologics License Application (BLA) for a ''Biological Product''.	Q.II.1	Final	Draft.
	Q.II.2	Final	Final.
	Q.II.3	Draft	Final.
Part III. Exclusivity	Q.III.1	Draft	Final.
	Q.III.2	Final	Final.

This guidance finalizes certain Q&As that were included in the draft guidance issued on May 13, 2015. FDA considered written comments the Agency received regarding these Q&As, and made changes to the Q&As, as appropriate. Editorial changes were made primarily for clarification.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Questions and Answers on Biosimilar Development and the BPCI Act.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

FDA is announcing, in a separate document published elsewhere in this issue of the **Federal Register**, the availability of the draft guidance for industry entitled ''New and Revised Draft Q&As on Biosimilar Development and the BPCI Act (Revision 2).''

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 for submission of an investigational new drug application have been approved under OMB control number 0910–0014. The collections of information in 21 CFR 314.50 for submission of a new drug application have been approved under OMB control number 0910–0001. The collections of information in section 351(a) of the PHS Act under part 601 (21 CFR part 601) for submission of a BLA have been approved under OMB control number 0910–0338. The collections of information in section 351(k) of the PHS Act under part 601 for submission of a BLA have been approved under OMB control number 0910–0719. The collections of information for submission of a meeting package to the appropriate review division with the meeting request as described in the draft guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants of BsUFA Products'' have been approved under OMB control number 0910–0802.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: December 6, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–26853 Filed 12–11–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7007–N–06]

60-Day Notice of Proposed Information Collection: Data Collection for EnVision Center Demonstration Sites

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development (HUD) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information.

The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* February 11, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or by email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–5000; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the proposed collection of information described in Section A.

A. Overview of Information Collection

Title of Information Collection: HUD EnVision Centers Demonstration Data Collection.

OMB Approval Number: Pending.

Type of Request: New.

Form Number: TBD.

Description of the need for the information and proposed use: HUD seeks to collect data from the EnVision Center Demonstration sites to find out the effectiveness of collaborative efforts by government, industry, and nonprofit organizations to accelerate economic mobility of low-income households in communities that include HUD-assisted housing. The demonstration builds upon existing partnerships and continues collaborative work to improve the lives of residents housed with HUD assistance, by providing a forum by which cross-sector organizations can come together to design and implement local interventions to advance self-sufficiency and economic mobility through a four-pillar approach to opportunity. The four pillars are: (1) Economic Empowerment, (2) Educational Advancement, (3) Health and Wellness, and (4) Character and Leadership. HUD believes that these four pillars can be the foundation for driving collaboration amongst communities, the private sector, and the federal government, intended to improve the quality of life of HUD-assisted and low-income households and to empower them to become self-sufficient.

Located in or near Public Housing Authorities (PHA), EnVision Centers are centralized hubs for supportive services focused on the four pillars listed above. The EnVision Centers demonstration is premised on the notion that financial support alone is insufficient to solve the problem of poverty. Intentional and collective efforts across a diverse set of organizations with an even more diverse set of supportive services expertise are needed to implement a holistic approach to long-lasting self-sufficiency. Envision Centers embody this concept, bringing together a diverse set of organizations and resources under one roof, alleviating barriers commonly faced by residents and other low-income individuals including access and transportation. An example of this includes the IRS offering free tax preparation services to residents in the EnVision Center, while simultaneously having the Department of Education provide coordinators to aide residents in gathering key tax and other pertinent information needed to apply for the Free Application for Federal Student Aid (FAFSA). Another example includes; CyberPatriots offering computer technical classes through Cybergenerations while the Small Business Administration (SBA) provides ''off the shelf'' entrepreneurship courses to educate residents, and other low-income individuals interested in launching their own businesses.

In its report released in January 2011, that focused on Temporary Assistance for Needy Families, Employment Services and Workforce Investment Act Adult employment programs funded by the U.S. Departments of Labor, Education, and Health and Human Services, the Government Accountability Office (GAO) found that efficiencies in offering government services could be achieved by co-locating services and consolidating administrative structures. EnVision Centers aim to help foster efficiencies through co-locating government services and consolidating administrative structures. Data collection is necessary to assess and determine eligibility for EnVision Center designation and identify other activities to be conducted at EnVision Centers.

Potential EnVision Center sites are required to submit letters of commitment and Action Plans that promote and expand economic mobility. These Action Plans will describe the goals of the community's participation in the demonstration and provide, to the extent as possible, objective goals regarding the number of partnerships established with state and local government, non-profits, faith-based organizations, and private and philanthropic organizations. Once designated as an EnVision Center, designees are required to keep records (*e.g.*, Action Plans, etc.) that document how the Demonstration is being implemented, cooperate with the evaluation, and commit to providing quarterly progress reports. The Action plan serves as a vehicle for bringing together stakeholders and providing them with a tangible path for achieving the goals of the EnVision Center. These plans will specify and formalize the participation of community stakeholders, describe gaps in current service delivery models, describe the onsite arrangements for intake processing and referrals to network stakeholders, identify the physical location(s) which can act as a shared services site to house the EnVision Center, and/or outline specific benchmarks and goals for the EnVision Center. These plans could also capture the goals of the community's participation in the demonstration and provide, to the extent possible, objective indicators of success regarding the number of partnerships established with state and local government, non-profits, faith-based organizations, and private and philanthropic organizations. Progress reports will be required on a quarterly basis in order to track EnVision Center implementation, assess and address Technical Assistance (TA) needs, and monitor activities, outputs and outcomes. A Customer Satisfaction survey will be administered within 30-days to individuals who go through the EnVision Center's intake process. This will provide information about how participants are experiencing the supports, referrals, and placement processes.

Envision Center sponsors may include Public Housing Authorities (PHAs), state and local governments, Tribes, Tribally-Designated Housing Agencies, participating jurisdictions, housing counseling agencies, multifamily owners/operators, faith-based and nonprofit organizations, and Continuums of Care (CoC).

Respondents (i.e., affected public): Executive Sponsor, Center Coordinator, Navigator and Participants.

Respondent	Occupation	SOC code	Median hourly wage rate
EnVision Center Executive Sponsor	Chief Executive	11–1011	$88.11
EnVision Center Director	General and Operations Managers	11–1021	48.27
EnVision Center Navigator	Social and Human Service Assistant	21–1093	15.92
EnVision Center Participant	Federal Minimum Wage Rate	N/A	7.25

Source: Bureau of Labor Statistics, Occupational Employment Statistics (May 2017), *https://www.bls.gov/oes/current/oes_stru.htm* and Department of Labor, Minimum Wage (2009), *https://www.dol.gov/general/topic/wages/minimumwage*.

The EnVision Center Executive Sponsor and Envision Center Director at the 200 EnVision Centers will complete the Commitment Letter. The EnVision Center Executive Sponsor, EnVision Center Director and the EnVision Center Navigator will complete the Action Plan and the Quarterly Report while the EnVision Center Participant will complete the Customer Satisfaction Survey.

For the Commitment Letter, it is assumed that the EnVision Center Executive Sponsor and the EnVision Center Director will need 0.25 hours to complete this a year. The total number of respondents would be 200 based on the 200 centers.

For the Action Plan, it is assumed that the EnVision Center Executive Sponsor and EnVision Center Director will need one hour to complete this and the EnVision Center Navigator will need seven hours to complete this for an average of 8 hours total.

For the Quarterly Reports, it is assumed that the EnVision Center Executive Sponsor and EnVision Center Director will need one hour to complete the review and and the EnVision Center Navigator will need five hours to complete this task for an average of 6 hours total.

For the Customer Satisfaction Survey, we anticipate an average 200 Envision Center Participant visits a year from each of the 200 centers. This is a total of 40,000 respondents per year with each survey having a completion time of three minutes.

Information collection	Number of respondents	Response frequency	Burden hours per response	Annual burden hours	Hourly cost per response	Total cost
Commitment Letter (Completed by the EnVision Center Navigator/EnVision Center Executive Sponsor/EnVision Center Director)	200	1	0.25	50.00	$68.19	$3,409.50
Action Plan (Completed by the EnVision Center Navigator/EnVision Center Executive Sponsor/EnVision Center Director)	200	1	8.00	1,600.00	22.45	35,920
Quarterly Report (Completed by the EnVision Center Navigator/EnVision Center Executive Sponsor/EnVision Center Director)	200	4	6.00	4,800.00	24.63	118,224
Customer Satisfaction Survey (Completed by the EnVision Center Participant)	40,000	1	0.05	2,000.00	7.25	14,500.00
Total	40,600			8450.00		172,053.50

B. Solicitation of Public Comment

This notice solicits comments from members of the public and affected parties concerning the collection of information described in Section A on the following: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 30, 2018.

Todd M. Richardson,

General Deputy Assistant, Secretary for Policy Development and Research.

[FR Doc. 2018–26902 Filed 12–11–18; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–739 (Fourth Review)]

Clad Steel Plate From Japan

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on January 2, 2018 (83 FR 148) and determined on April 9, 2018 that it would conduct a full review (83 FR 17446, April 19, 2018). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on July 17, 2018 (83 FR 33250). The Commission cancelled the hearing scheduled on October 18, 2018 following a request by the sole party to the proceeding (83 FR 53295, October 22, 2018). In lieu of a hearing, the domestic producers responded to written questions submitted by the Commission, as part of their post-hearing brief.

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675 (c)). It completed and filed its determination in this review on December 6, 2018. The views of the Commission are contained in USITC Publication 4851 (December 2018), entitled *Clad Steel Plate from Japan: Investigation No. 731–TA–739 (Fourth Review).*

By order of the Commission.

Issued: December 6, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–26845 Filed 12–11–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1110 (Second Review)]

Sodium Hexametaphosphate From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on sodium hexametaphosphate from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on June 1, 2018 (83 FR 25488) and determined on September 4, 2018 that it would conduct an expedited review (83 FR 50958, October 10, 2018).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on December 7, 2018. The views of the Commission are contained in USITC Publication 4840 (December 2018), entitled Sodium Hexametaphosphate from China*:* Investigation No. 731–TA–1110 (Second Review).

By order of the Commission.

Issued: December 7, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–26861 Filed 12–11–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Pocket Lighters, DN 3355;* 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,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server 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 BIC Corporation, on December 6, 2018. 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 pocket lighters. The complaint names as respondents: Arrow Lighter, Inc. d/b/a MK Lighter, Inc. of City of Industry, CA; Benxi Fenghe Lighter Co., Ltd. of China; Excel Wholesale Distributors Inc. of College Point, NY; Milan Import Export Company, LLC of San Diego, CA; Wellpine Company Limited of Hong Kong; and Zhuoye Lighter Manufacturing Co, Ltd. of China. The complainant requests that the Commission issue a general exclusion order or alternatively a limited exclusion order, cease and desist orders, and impose a bond during the 60-day 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, not to exceed five (5) pages in length, inclusive of attachments, 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:

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Meredith M. Broadbent did not participate in the vote.

(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 should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3355) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electonic Filing Procedures, Electronic Filing Procedures.) [1] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All 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 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)).

By order of the Commission.

Issued: December 6, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–26844 Filed 12–11–18; 8:45 am]

BILLING CODE 7020–02–P

[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.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committees on the Federal Rules of Appellate Procedure and Federal Rules of Evidence

AGENCY: Advisory Committees on the Federal Rules of Appellate Procedure and Federal Rules of Evidence, Judicial Conference of the United States.

ACTION: Notice of cancellation of public hearings.

SUMMARY: The January 4, 2019 public hearings in Phoenix, Arizona, on proposed amendments to the Appellate and Evidence Rules have been canceled.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Staff, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

SUPPLEMENTARY INFORMATION: Announcements for this hearing were previously published in 83 FR 39463 and 83 FR 44305.

Dated: December 6, 2018.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2018–26817 Filed 12–11–18; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[Docket No. 2018R–03]

Commerce in Explosives; 2018 Annual List of Explosive Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); Department of Justice.

ACTION: Notice of List of Explosive Materials.

SUMMARY: Pursuant to United States Code and the Code of Federal Regulations, the Department must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of pertinent United States Code. The list covers not only explosives, but also blasting agents and detonators, all of which are defined as ''explosive materials'' in pertinent United States Code. The 2017 Annual List of Explosives inadvertently omitted a letter in one of the explosive materials. This notice does not make any substantive changes to the 2017 annual list; however, it corrects the list and publishes the 2018 Annual List of Explosive Materials.

DATES: The list becomes effective December 12, 2018.

FOR FURTHER INFORMATION CONTACT: Krissy Carlson, Chief; Firearms and Explosives Industry Division; Bureau of Alcohol, Tobacco, Firearms, and Explosives; United States Department of Justice; 99 New York Avenue NE, Washington, DC 20226; (202) 648–7120.

SUPPLEMENTARY INFORMATION:

Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, the Department must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of 18 U.S.C. 841 *et seq.* The list covers not only explosives, but also blasting agents and detonators, all of which are defined as ''explosive materials'' in 18 U.S.C. 841(c).

Each material listed, as well as all mixtures containing any of these materials, constitute ''explosive materials'' under 18 U.S.C. 841(c). Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is not all-inclusive. The fact that an explosive material is not on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definition in 18 U.S.C. 841. Explosive materials are listed alphabetically and, where applicable, followed by their common names, chemical names, and/or synonyms in brackets.

On December 28, 2017, the Department published in the **Federal Register** the 2017 Annual List of Explosive Materials (Docket No. 2017RR–19, 82 FR 61589). The **Federal Register** inadvertently omitted the letter ''A'' from ''ANFO'' which is the acronym for ammonium nitrate-fuel oil. This notice does not make any substantive changes to the 2017 annual list; however, it corrects this error and supersedes the List of Explosive Materials dated December 28, 2017.

Notice of the 2018 Annual List of Explosive Materials

Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, I hereby designate the following as ''explosive materials'' covered under 18 U.S.C. 841(c):

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (non-cap sensitive).
Ammonium perchlorate having particle size less than 15 microns.
Ammonium perchlorate explosive mixtures (excluding ammonium perchlorate composite propellant (APCP)).
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].
Aromatic nitro-compound explosive mixtures.
Azide explosives.

B

Baranol.
Baratol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
Black powder substitutes.
*Blasting agents, nitro-carbo-nitrates, including non-cap sensitive slurry and water gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].
Bulk salutes.
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclonite [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclotol.
Cyclotrimethylenetrinitramine [RDX].

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM [dipicramide; diaminohexanitrobiphenyl].
Dipicryl sulfone.
Dipicrylamine.
Display fireworks.
DNPA [2,2-dinitropropyl acrylate].
DNPD [dinitropentano nitrile].
Dynamite.

E

EDDN [ethylene diamine dinitrate].
EDNA [ethylenedinitramine].
Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
EGDN [ethylene glycol dinitrate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive liquids.
Explosive mixtures containing oxygen-releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen-releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen-releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen-releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitroform).
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive powders.

F

Flash powder.
Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogen [RDX].
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMTD [hexamethylenetriperoxidediamine].
HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.

Igniters.
Initiating tube systems.

K

KDNBF [potassium dinitrobenzofuroxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
MEAN [monoethanolamine nitrate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Metriol trinitrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
MMAN [monomethylamine nitrate]; methylamine nitrate.
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametriol trinitrate].
Nitrate explosive mixtures.
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol [ethylene glycol dinitrate, EGDN].
Nitroguanidine explosives.
Nitronium perchlorate propellant mixtures.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [plastic bonded explosives].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate explosives.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (manufactured as an explosive).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.
Pyrotechnic compositions.
Pyrotechnic fuses.
PYX [2,6-bis(picrylamino)] 3,5-dinitropyridine.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Salutes (bulk).
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium azide explosive mixture.
Sodium dinitro-ortho-cresolate.
Sodium nitrate explosive mixtures.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphnic acid explosives.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene].
TATB [triaminotrinitrobenzene].
TATP [triacetonetriperoxide].
TEGDN [triethylene glycol dinitrate].
Tetranitrocarbazole.
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetrazole explosives.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN [trimethylolethane trinitrate].
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethylorthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water-bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).
Water-in-oil emulsion explosive compositions.

X

Xanthomonas hydrophilic colloid explosive mixture.

Date approved: November 26, 2018.

Thomas E. Brandon,

Deputy Director.

[FR Doc. 2018–26856 Filed 12–11–18; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0296]

Agency Information Collection Activities: Proposed Collection; Comments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: 2018 Census of Medical Examiner and Coroner Offices (CMEC)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, 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 February 11, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Connor Brooks, Statistician, Law Enforcement Statistics Unit, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Connor.Brooks@usdoj.gov;* phone: 202–514–8633).

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 Bureau of Justice Statistics, 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:* Reinstatement of the Census of Medical Examiner and Coroner Offices, with changes, of a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2018 Census of Medical Examiner and Coroner Offices.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is CMEC–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics, Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

This information collection is a census of medical examiner and coroner offices. The 2018 survey is revised from the data collection referencing 2004. BJS plans to field the 2018 CMEC from May through November 2019. Respondents will be the medical examiners and coroners (or members of their staff) working in medicolegal death investigation offices.

Abstract: The 2018 CMEC will focus on the same topics as the 2004: The number and type of medical examiner and coroner offices operating in the U.S., staff at these offices, budget and capital resources, workload, policies and procedures regarding casework, specialized death investigations, records and evidence retention, resources, and operations. The survey was assessed by a panel of practitioners and subject matter experts. Results from these efforts were used to revise the survey to ensure content was up-to-date and relevant to the medicolegal death investigation system today. The survey was also revised to improve clarity and ease of answering questions. Suggestions resulting from this review were incorporated into the survey and then cognitively tested with 14 medical examiner and coroner offices.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* A projected 2,400 respondents will take an average of 1.5 hours each to complete form CMEC–1, including time to research or find information not readily available. In addition, an estimated 1,100 respondents will be contacted for data quality follow-up by phone at 15 minutes per call.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 3,875 total burden hours associated with this information 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.405A, Washington, DC 20530.

Dated: December 7, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–26881 Filed 12–11–18; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0147]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: Census of State and Federal Adult Correctional Facilities

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, 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 February 11, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Laura Maruschak, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *laura.maruschak@usdoj.gov;* telephone: 202–307–5986).

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 Bureau of Justice Statistics, 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:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* Census of State and Federal Adult Correctional Facilities.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for this collection is CJ–43. The applicable component within the Department of Justice is the Bureau of Justice Statistics (Corrections Unit), in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State departments of corrections (DOCs) and the Federal Bureau of Prisons (BOP).

Others: Various local authorities and private entities for which primary respondents cannot provide facility-level data.

The affected public consists of approximately 451 respondents, including 51 central state DOC and BOP reporters and an estimated 400 reporters from locally- or privately-operated facilities primarily housing prisoners for state or BOP authorities. BJS will attempt to identify central reporters for private facilities operated by the same company. If successful, the overall number of respondents will be reduced.

The Census of State and Federal Adult Correctional Facilities (CCF) is part of the larger Bureau of Justice Statistics' (BJS) portfolio of establishment surveys that inform the nation on the characteristics of adult correctional facilities and persons sentenced to state and federal prisons. The CCF collects data at the facility level. Data obtained are intended to describe the characteristics of confinement and community-based adult correctional facilities that are (1) operated by state and BOP authorities or (2) operated by local authorities or private entities under contract to state or BOP authorities. The data collected inform issues related to the operations of facilities and the conditions of confinement, including facility capacity and crowding, safety and security within prisons, staff workload, overall facility function, programming, work assignments, and special housing. All data are submitted on a voluntary basis. Consistent with the most recent iteration of the CCF in 2005, BJS plans to collect the following data on each facility eligible for the census with the reference date of June 30, 2019:

- Type of authority operating facility (federal, state, local, joint state and local)
- Whether the facility is authorized to house males, females, or both males and females
- Type of physical security at the facility
- Functions of the facility
- Whether or not the facility has a designated geriatric or hospice unit
- Percentage of prisoners permitted to leave the facility unaccompanied
- Rated or design capacity of the facility
- Whether or not the facility operated under a state or federal court order or consent decree that limited the number of prisoners it could house
- Whether or not the facility operated under a state or federal court order or consent decree for specific conditions of confinement
- Average daily population of male and female prisoners over a one-year period
- Number of prisoners on the reference date
- Number of male and female prisoners under the age of 18 on the reference date
- Number of prisoners by racial category on the reference date
- Number of prisoners held in maximum, medium, and minimum custody on the reference date
- Number of prisoners who were not U.S. citizens on the reference date
- Number of prisoners held in maximum, medium, and minimum custody on the reference date
- Number of prisoners housed in protective custody, administrative segregation, segregated for disciplinary reasons, or other restrictive housing on the reference date
- Number of prisoners held for federal, state, local, and tribal authorities on the reference date
- Number of male and female security staff employed by the facility on the reference date
- Number of security staff listed by racial category on the reference date
- Number of misconduct/disciplinary reports filed on prisoners over a one-year period
- Number of assaults against facility staff by prisoners reported over a one-year period
- Number of prisoner assaults by other prisoners reported over a one-year period
- Number of disturbances that occurred at the facility over a one-year period
- Number of escapes by prisoners that occurred at the facility over a one-year period
- Number of walkaways by prisoners that occurred at the facility over a one-year period
- Types of work assignments available to prisoners on the reference date
- Types of educational programs available to prisoners on the reference date
- Types of counseling or special programs available to prisoners on the reference date

BJS is proposing to add the following items to the 2019 CCF collection, all of which are likely available from the same databases as existing data elements and should pose minimal additional burden to the respondents, while enhancing BJS's ability to characterize the corrections system and populations it serves:

- Whether or not the facility is administratively linked to other facilities and if they are, names of other facilities
- Whether or not the facility has a housing unit specifically designated for veterans
- Number of prisoners by sex who were not U.S. citizens on the reference date
- Number of security staff on average at facility by day shift, night shift, and overnight shift
- Number of shared security staff with other administratively-linked facilities
- Number of prisoner assaults by other prisoners resulting in serious injury and without serious injury over a one-year period
- Number of GED certificates awarded to prisoners over a one-year period

Finally, BJS is proposing to remove the following items from the CCF collection, based on high burden, low utilization, and/or low response rates in 2005:

- Year facility was constructed
- Plans to renovate or close the facility during the next three years
- Net effect of planned changes in terms of bed capacity of the facility
- Number of prisoners housed in a geriatric unit on the reference date
- Year that state or federal court order or consent decree took effect
- Number of confined prisoners sentenced to death on the reference date
- Per diem fees paid to the facility for housing federal, state, or local authorities
- Payroll and non-payroll, full-time and part-time staff, employed by the facility on the reference date
- Number of male and female administrators, clerical and maintenance, educational, professional, and technical staff employed by the facility on the reference date
- Number of full-time and part-time payroll staff by racial category on the reference date
- Number of part-time security staff by racial category on the reference date
- Number of facility staff deaths resulting from assaults by prisoners for a one-year period
- Number of disturbances by type (major or other) that occurred at the facility over a one-year period
- Number of prisoners at the facility that had work assignments on the reference date
- Whether the facility operates a work release program, and if so, number of prisoners participating in the program on the reference date

BJS uses the information gathered in CCF in published reports and statistics. The reports will be made available to the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, others interested in criminal justice statistics, and the general public via the BJS website.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are an estimated 451 respondents reporting for approximately 2,000 facilities. It is estimated to take 3 hours to complete each facility census form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 6,000 total burden hours associated with this collection, up from 5,100 hours in 2005. The increase in burden hours is due to an increase of approximately 300 facilities that are anticipated to be in scope for the 2019 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: December 7, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–26880 Filed 12–11–18; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 11 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference or videoconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Sherry Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *hales@arts.gov,* or call 202/682–5696.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of July 5, 2016, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The upcoming meetings are:

Heritage Fellowships (review of applications): This meeting will be closed.

Date and time: January 8, 2019; 1:00 p.m. to 4:00 p.m.

Heritage Fellowships (review of applications): This meeting will be closed.

Date and time: January 10, 2019; 1:00 p.m. to 4:00 p.m.

State Partnership Agreements (review of applications): This meeting will be open and by videoconference.

Date and time: January 15, 2019; 3:00 p.m. to 5:30 p.m.

State Partnership Agreements (review of applications): This meeting will be open and by videoconference.

Date and time: January 16, 2019; 3:00 p.m. to 5:30 p.m.

State Partnership Agreements (review of applications): This meeting will be open and by videoconference.

Date and time: January 17, 2019; 3:00 p.m. to 5:30 p.m.

Folk Arts Partnerships (review of applications): This meeting will be closed.

Date and time: January 17, 2019; 1:00 p.m. to 3:00 p.m.

Jazz Masters Fellowships (review of applications): This meeting will be closed.

Date and time: January 24, 2019; 2:00 p.m. to 3:00 p.m.

Jazz Masters Fellowships (review of applications): This meeting will be closed.

Date and time: January 24, 2019; 3:00 p.m. to 4:00 p.m.

Research: Art Works (review of applications): This meeting will be closed.

Date and time: January 24, 2019; 11:00 a.m. to 1:30 p.m.

Research: Art Works (review of applications): This meeting will be closed.

Date and time: January 28, 2019; 11:00 a.m. to 1:30 p.m.

Regional Partnership Agreements (review of applications): This meeting will be open.

Date and time: January 30, 2019; 3:00 p.m. to 4:00 p.m.

Dated: December 6, 2018.

Sherry Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2018–26821 Filed 12–11–18; 8:45 am]

BILLING CODE 7537–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–38 and CP2019–40; MC2019–39 and CP2019–41; MC2019–40 and CP2019–42]

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:* December 14, 2018.

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
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

[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).

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–38 and CP2019–40; *Filing Title:* USPS Request to Add Priority Mail Contract 487 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 6, 2018; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 14, 2018.

2. *Docket No(s).:* MC2019–39 and CP2019–41; *Filing Title:* USPS Request to Add Priority Mail Contract 488 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 6, 2018; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 14, 2018.

3. *Docket No(s).:* MC2019–40 and CP2019–42; *Filing Title:* USPS Request to Add Priority Mail Contract 489 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 6, 2018; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 14, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–26885 Filed 12–11–18; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service™.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the United States Postal Service® (Postal Service) is revising the notice for Privacy Act System of Records USPS 830.000, Customer Service and Correspondence.

DATES: These revisions will become effective without further notice on January 11, 2019 unless comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be mailed or delivered to the Privacy and Records Management Office, United States Postal Service, 475 L'Enfant Plaza SW, Room 1P830, Washington, DC 20260–1101. Copies of all written comments will be available at this address for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Janine Castorina, Chief Privacy and Records Management Officer, Privacy and Records Management Office, 202–268–3069 or *privacy@usps.gov.*

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their systems of records in the **Federal Register** when there is a revision, change, or addition, or when the agency establishes a new system of records. As detailed below, the Postal Service™ has determined that USPS 830.000, Customer Service and Correspondence should be revised to modify Purpose(s), Retention and Disposal, and System Manager(s) and Address. These changes are being made to:

a. Support the new Address Matching Database, which will be used to identify, prevent and mitigate fraudulent activity within the Change of Address and Hold Mail processes.

b. Support the Operation Santa program, a long-standing program that collects the thousands of letters to Santa the USPS receives each year and allows customers to collect and fulfill gift requests for underprivileged children.

The new Address Matching Database is being implemented to identify, prevent and mitigate fraudulent activity within the Change of Address and Hold Mail processes. Postal Service is establishing a dataflow between existing customer systems and the Address Matching Database. This dataflow will allow the Address Matching Database to: Confirm if there is an address match when a new Hold Mail request is submitted; confirm the presence of a Change of Address request when a Hold Mail request is submitted during a 30

day time frame; and confirm the presence of a Hold Mail request when a Change of Address request is submitted during a 30 day time frame. The Address Matching Database will also send confirmation notifications to customers who submit a Hold Mail request.

Operation Santa is a long-standing program that collects the thousands of letters to Santa the Postal Service receives each year and allows customers to collect and fulfill gift requests for underprivileged children. In 2017 USPS digitalized the program in a Pilot test out of the Farley, NY building to continue to protect children's PII while allowing more letters to be adopted. In 2018 the Pilot program will be expanded to 7 markets while performing a volume test in hopes of expanding the program nationally in the coming years. The Letters from Santa program also adds to the excitement of Christmas and is ideal for interesting youngsters in letter writing, stamps and penmanship.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed revisions has been sent to Congress and to the Office of Management and Budget for their evaluations. The Postal Service does not expect these amended systems of records to have any adverse effect on individual privacy rights. The notice for USPS 830.000, Customer Service and Correspondence, provided below in its entirety, is as follows:

SYSTEM NAME AND NUMBER:

USPS 830.000, Customer Service and Correspondence.

SYSTEM CLASSIFICATION:

None.

SYSTEM LOCATION:

USPS Consumer and Industry Affairs, Headquarters; Integrated Business Solutions Services Centers; the National Customer Support Center (NCSC); districts, Post Offices, contractor sites; and detached mailing units at customer sites.

SYSTEM MANAGER(S):

Chief Customer and Marketing Officer and Executive Vice President, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–5005; (202) 268–7536.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S) OF THE SYSTEM:

1. To enable review and response services for customer inquiries and concerns regarding USPS and its products and services.

2. To ensure that customer accounts and needs are attended to in a timely manner.

3. To enhance the customer experience by improving the security of Change of Address (COA) and Hold Mail processes.

4. To protect USPS customers from becoming potential victims of mail fraud and identity theft.

5. To identify and mitigate potential fraud in the COA and Hold Mail processes.

6. To verify a customer's identity when applying for COA and Hold Mail services.

7. To support (or facilitate) the administration of Operation Santa, Letters to Santa, or similar programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records relating to customers who contact customer service by online and offline channels. This includes customers making inquiries via email, 1–800–ASK–USPS, other toll-free contact centers, or the Business Service Network (BSN), as well as customers with product-specific service or support issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Customer information:* Customer and key contact name, mail and email address, phone and/or fax number; customer ID(s); title, role, and employment status; company name, location, type and URL; vendor and/or contractor information.

2. *Identity verification information:* Last four digits of Social Security Number (SSN), username and/or password, D–U–N–S Number, mailer ID number, publisher ID number, security level and clearances, and business customer number.

3. *Product and/or service use information:* Product and/or service type, product numbers, technology specifications, quantity ordered, logon and product use dates and times, case number, pickup number, article number, and ticket number.

4. *Payment information:* Credit and/or debit card number, type, and expiration date; billing information; checks, money orders, or other payment method.

5. *Customer preferences:* Drop ship sites and media preference.

6. *Service inquiries and correspondence:* Contact history; nature of inquiry, dates and times, comments, status, resolution, and USPS personnel involved.

RECORD SOURCE CATEGORIES:

Customers and, for call center operations, commercially available sources of names, addresses, and telephone numbers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Standard routine uses 1. through 7., 10., and 11. apply.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated databases, computer storage media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

By customer name, customer ID(s), mail or email address, phone number, customer account number, case number, article number, pickup number, and last four digits of SSN, ZIP Code, or other customer identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. Customer care records for *usps.com* products are retained 90 days.

2. Records related to 1–800–ASK–USPS, Delivery Confirmation service, Special Services, and international call centers are retained 1 year.

3. Customer complaint letters are retained 6 months and automated complaint records are retained 3 years.

4. Business Service Network records are retained 5 years.

5. Records related to Operation Santa, Letters to Santa, or similar programs are retained 6 months after the new calendar year.

6. Other records are retained 2 years after resolution of the inquiry.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge. Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections.

Computers are protected by mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system

controls including access controls, terminal and transaction logging, and file management software. Online data transmissions are protected by encryption.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See *Notification Procedure* below and *Record Access Procedures* above.

NOTIFICATION PROCEDURE:

Customers wanting to know if information about them is maintained in this system of records must address inquiries to the system manager in writing. Inquiries should include name, address, and other identifying information.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

June 27, 2012, *77 FR 38342;* April 29, 2005, *70 FR 22516.*

Ruth Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2018–26868 Filed 12–11–18; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

2019 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: As required by the Railroad Unemployment Insurance Act (Act), the Railroad Retirement Board (RRB) hereby publishes its notice for calendar year 2019 of account balances, factors used in calculating experience-based employer contribution rates, computation of amounts related to the monthly compensation base, and the maximum daily benefit rate for days of unemployment or sickness.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 2018. The balance in notice (2) is based on data as of September 30, 2018. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2019. The determinations made in notices (8) through (11) are effective January 1, 2019. The determination made in notice (12) is effective for registration periods beginning after June 30, 2019.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 N Rush Street, Chicago, Illinois 60611–1275.

FOR FURTHER INFORMATION CONTACT: Michael J. Rizzo, Bureau of the Actuary and Research, Railroad Retirement Board, 844 N Rush Street, Chicago, Illinois 60611–1275, telephone (312) 751–4771.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 2018, the computation of the calendar year 2019 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2019, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2019.

Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 2018, is $118,064,725.00;

2. The September 30, 2018, balance of any new loans to the RUI Account, including accrued interest, is zero;

3. The system compensation base is $4,148,935,149.55 as of June 30, 2018;

4. The cumulative system unallocated charge balance is ($433,831,623.64) as of June 30, 2018;

5. The pooled credit ratio for calendar year 2019 is zero;

6. The pooled charged ratio for calendar year 2019 is zero;

7. The surcharge rate for calendar year 2019 is 1.5 percent;

8. The monthly compensation base under section 1(i) of the Act is $1,605 for months in calendar year 2019;

9. The amount described in sections 1(k) and 3 of the Act as ''2.5 times the monthly compensation base'' is $4,012.50 for base year (calendar year) 2019;

10. The amount described in section 4(a–2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $4,012.50 with respect to disqualifications ending in calendar year 2019;

11. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $2,073 for months in calendar year 2019;

12. The maximum daily benefit rate under section 2(a)(3) of the Act is $78 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2019.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The ratio of the June 30, 2018 system compensation base of $4,148,935,149.55 to the June 30, 1991 system compensation base of $2,763,287,237.04 is 1.50144911. Multiplying 1.50144911 by $100 million yields $150,144,911.00. Multiplying $50 million by 1.50144911 produces $75,072,455.50. The Account balance on June 30, 2018, was $118,064,725.00. Accordingly, the surcharge rate for calendar year 2019 is 1.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2019 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A

− 37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 2019 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

Using the calendar year 2019 tier 1 tax base of $132,900 for A above produces the amount of $1,606.35, which must then be rounded to $1,605. Accordingly, the monthly compensation base is determined to be $1,605 for months in calendar year 2019.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 3, 4(a–2)(i)(A) and 2(c) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends.

Multiplying 2.5 by the calendar year 2019 monthly compensation base of $1,605 produces $4,012.50. Accordingly, the amount determined under sections 1(k), 3 and 4(a–2)(i)(A) is $4,012.50 for calendar year 2019.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account.

The calendar year 2019 monthly compensation base is $1,605. The ratio of $1,605 to $600 is 2.67500000. Multiplying 2.67500000 by $775 produces $2,073. Accordingly, the amount determined under section 2(c) is $2,073 for months in calendar year 2019.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2019, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 2018 monthly compensation base is $1,560. Multiplying $1,560 by 0.05 yields $78.00. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2019, is determined to be $78.

By Authority of the Board.

Sylvia Zaragoza,

Acting Secretary to the Board.

[FR Doc. 2018–26927 Filed 12–11–18; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84747; File No. SR–NASDAQ–2018–080]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the BrandywineGLOBAL—Global Total Return ETF, a Series of Legg Mason ETF Investment Trust, Under Nasdaq Rule 5735

December 7, 2018.

On October 17, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the BrandywineGLOBAL—Global Total Return ETF, a series of Legg Mason ETF Investment Trust, under Nasdaq Rule 5735 (Managed Fund Shares). The proposed rule change was published for comment in the **Federal Register** on November 5, 2018.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is December 20, 2018. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates February 3, 2019 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NASDAQ–2018–080).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26909 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84505 (October 30, 2018), 83 FR 55416.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84749; File No. SR–BX–2018–060]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Port Fees

December 7, 2018.

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 27, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to a proposal to amend port fees within Options 7, Section 3, titled ''BX Options Market—Ports and Other Services.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to define ''account number'' and utilize that term within Options 7, Section 3. Each change will be described in more detail below.

New Defined Term ''Account'' [sic]

The Exchange proposes to adopt a new definition within Options 7, Section 3 and apply this definition within the rule. The purpose of this defined new term ''account number'' is to conform the Exchange's use of certain terms within BX Rules. This term would be utilized in Options 7, Section 3 to describe the manner in which pricing is calculated. Recently, the Nasdaq affiliated exchanges filed rule changes to conform the usage of various terms across its 6 affiliated options markets within the various rulebooks.[3] The Exchange believes that utilizing the same defined terms, where possible, across its 6 affiliated options markets will avoid confusion for certain rules and pricing purposes. The term ''account number'' can be defined identically across Nasdaq's 6 affiliated options markets for purposes of pricing ports. The Exchange is not amending the manner in which pricing will be applied with respect to this particular change. The Exchange proposes to utilize the defined term ''account number'' in place of the term ''mnemonic,'' which was not defined in the pricing rules. The insertion of the new defined term is intended to add more specificity and clarity to the current pricing.

At this time, the Exchange proposes to define an ''account number'' within Options 7, Section 3 to mean a number assigned to a Participant. Participants may have more than one account number. The term ''mnemonic'' has been used frequently throughout Options 7 without being defined. The Exchange proposes to remove the term ''mnemonic'' from Options 7, Section 3 and replace the term with the defined term ''account number'' for the FIX protocol. The Exchange notes that the terms mnemonic and account number were being used interchangeably. The Exchange recently defined both terms in its rules.[4] The term account number is appropriate to describe these fees. The Exchange is not amending the manner in which it assesses the FIX port, rather the Exchange simply proposes to utilize the new term to better describe its current pricing.

Also, the Exchange proposes to remove the term ''mnemonic'' from the CTI Port Fee, FIX DROP Port Fee, BX Depth Port Fee and BX Top Port Fee. Today, these ports are assessed only one fee per port, per month and therefore adding the term ''per account number'' would be redundant and unnecessary. These ports are associated with one account number. The Exchange is not proposing to amend the manner in which these ports are assessed, rather the Exchange proposes to eliminate the ''per mnemonic'' description. The Exchange believes that the billing is clearly defined as ''per port, per month.''

The Exchange also proposes to amend current ''(c) Access and Redistribution Fee'' as ''v'' to conform to the remainder of the rule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

New Defined Term ''Account'' [sic]

The Exchange's proposal to define the term ''account number'' within Options, Section 3 and apply that term within the rule in place of the term ''mnemonic'' as to the manner in which FIX Port Fees are priced is reasonable because the term is defined and will be utilized consistently throughout Options 7, where applicable. The usage of the defined term ''account number'' will

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] BX filed to define the terms ''account number,'' ''badge'' and ''mnemonic'' at Chapter I, Section 1(a)(70), (71) and (72) respectively. *See* Securities Exchange Act Release No. 84520 (November 1, 2018), 83 FR 55765 (November 7, 2018) (SR–BX–2018–050). The Nasdaq Stock Market LLC filed to amend The Nasdaq Options Market LLC rules to define the terms ''account number,'' ''badge'' and ''mnemonic'' at Chapter I, Section 1(a)(69), (70) and (71) respectively. *See* Securities Exchange Act Release No. 84571 (November 9, 2018), 83 FR 57758 (November 16, 2018) (SR–NASDAQ–2018–086). Nasdaq Phlx LLC has filed to define the terms ''account number,'' ''badge'' and ''mnemonic'' at Rule 1000(b)(51), (52) and (53) respectively. *See* Securities Exchange Act Release No. 84620 (November 19, 2018), 83 FR 60512 (November 6, 2018) (SR–Phlx–2018–71). *See* also ISE Rule 100(a)(1), (5) and (34) which defines the terms ''account number,'' ''badge'' and ''mnemonic,'' respectively. *See also* GEMX Rule 100(a)(1), (5) and (35) which defines the terms ''account number,'' ''badge'' and ''mnemonic,'' respectively. *See also* MRX Rule 100(a)(1), (5) and (36) which defines the terms ''account number,'' ''badge'' and ''mnemonic,'' respectively.

[4] A ''mnemonic'' is defined as an acronym comprised of letters and/or numbers assigned to Participants. A Participant account may be associated with multiple mnemonics. *See* Securities Exchange Act Release No. 84520 (November 1, 2018), 83 FR 55765 (November 7, 2018) (SR–BX–2018–050). Mnemonics are issued to Participants to identify associated persons of Participants.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

bring uniformity to the term and its usage across the 6 affiliated options markets. The proposed change to utilize the defined term will not amend the manner in which the ports are billed, rather it will also bring greater clarity to pricing in Options 7, Section 3.

The Exchange's proposal to define the term ''account number'' within Options 7, Section 3 and apply that term within Options 7, Section 3, in place of the term ''mnemonic'' for the FIX Port Fee is equitable and not unfairly discriminatory because the Exchange proposes to apply that term uniformly in billing Participants utilizing those ports.

The Exchange's proposal to remove the term ''mnemonic'' for the pricing of the CTI Port Fee, FIX DROP Port Fee, BX Depth Port Fee and BX Top Port Fee is reasonable because, today, these ports are assessed only one fee per port, per month and this change will bring greater clarity to the manner in which these services are billed. The term ''mnemonic'' was undefined until the Exchange filed to define that term within the BX Rules.[7] The manner in which the term ''mnemonic'' was defined for purposes of BX's Rules is not the manner that was intended for pricing these ports. To that end, the Exchange proposes to remove the term ''mnemonic'' and replace that term with ''account number,'' where applicable, to convey the intended manner in which the Exchange prices ports. This proposal will conform the defined term across BX Rules.[8] Today, these ports are assessed only one fee per port, per month and therefore adding the term ''per account number'' would be redundant and unnecessary. These ports are associated with one account number. This proposal will conform the defined term across BX Rules. The Exchange is not proposing to amend the manner in which these ports are assessed, rather the Exchange proposes to eliminate the ''per mnemonic'' description and more clearly define the manner in which these services are billed as ''per port, per month.''

The Exchange's proposal to remove the term ''mnemonic'' for the pricing of the CTI Port Fee, FIX DROP Port Fee, BX Depth Port Fee and BX Top Port Fee is equitable and not unfairly discriminatory because the Exchange will continue to uniformly assess all market participants these services in a uniform manner. The proposed change does not amend the manner in which these services are billed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that this proposal does not amend actual fees, rather the Exchange proposes to amend the name of a port fee and define a new term to be used more accurately to describe the manner in which certain services within Options 7, Section 3 are billed.

New Defined Term ''Account'' [sic]

The Exchange's proposal to define the term ''account number'' within Options 7, Section 3 and apply that term within that rule in place of the term ''mnemonic'' with respect to the manner in which FIX protocols are priced does not impose an undue burden on intra-market competition because the Exchange proposes to apply that term uniformly in billing Participants utilizing those ports. No changes are being made to the manner in which the Exchange bills these ports.

The Exchange's proposal to remove the term ''mnemonic'' for the pricing of the CTI Port Fee, FIX DROP Port Fee, BX Depth Port Fee and BX Top Port Fee does not impose an undue burden on intra-market competition because the Exchange will continue to uniformly assess all market participants these services in a uniform manner. The proposed change does not amend the manner in which these services are billed.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2018–060 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–BX–2018–060. 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–BX–2018–060 and should

[7] *See* Securities Exchange Act Release No. 84520 (November 1, 2018), 83 FR 55765 (November 7, 2018) (SR–BX–2018–050).

[8] *See* Chapter I, Section 1(a)(70).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26911 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33317; File No. 812–14942]

Symmetry Panoramic Trust and Symmetry Partners, LLC

December 6, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act. The requested order would permit certain registered open-end investment companies to acquire shares of certain registered open-end investment companies, registered closed-end investment companies, business development companies, as defined in section 2(a)(48) of the Act, and registered unit investment trusts (collectively, ''Underlying Funds'') that are within and outside the same group of investment companies as the acquiring investment companies, in excess of the limits in section 12(d)(1) of the Act.

Applicants: Symmetry Panoramic Trust (the ''Trust''), a Delaware statutory trust that is registered under the Act as an open-end management investment company with multiple series, and Symmetry Partners, LLC (the ''Applying Manager''), a Connecticut limited liability company registered as an investment adviser under the Investment Advisers Act of 1940.

Filing Dates: The application was filed on August 30, 2018.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 31, 2018, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicants: John A. Mooney, Esq., Symmetry Partners, LLC, 151 National Drive, Glastonbury, CT 06033; Mark C. Amorosi, Esq., K&L Gates LLP, 1601 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817, or Kaitlin C. Bottock, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order to permit (a) a Fund [1] (each a ''Fund of Funds'') to acquire shares of Underlying Funds [2] in excess of the limits in sections 12(d)(1)(A) and (C) of the Act and (b) the Underlying Funds that are registered open-end investment companies or series thereof, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 to sell shares of the Underlying Fund to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.[3] Applicants also request an order of exemption under sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.[4] Applicants state that such transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential (a) undue influence over an Underlying Fund that is not in the same ''group of investment companies'' as the Fund of Funds through control or voting power, or in connection with certain services, transactions, and underwritings, (b) excessive layering of fees, and (c) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A), (B), and (C) of the Act.

3. Section 12(d)(1)(J) of the Act provides that the Commission may

[10] 17 CFR 200.30–3(a)(12).

[1] Applicants request that the order apply to each existing and future series of the Trust and to each existing and future registered open-end management investment company or series thereof that is advised by the Applying Manager or its successor-in-interest or by any other investment adviser controlling, controlled by or under common control with the Applying Manager or its successor-in-interest and is part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Trust (each, a ''Fund''). For purposes of the requested order, ''successor-in-interest'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies and business development companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

[2] Certain of the Underlying Funds have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as an exchange-traded fund (''ETF'').

[3] Applicants do not request relief for Funds of Funds to invest in reliance on the order in business development companies and registered closed-end investment companies that are not listed and traded on a national securities exchange.

[4] A Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each ETF that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund of Funds, to sell shares to or redeem shares from the Fund of Funds. This includes, in the case of sales and redemptions of shares of ETFs, the in-kind transactions that accompany such sales and redemptions. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF is also an investment adviser to the Fund of Funds. A Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund (including a business development company) through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26795 Filed 12–11–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84732; File No. SR–NYSEArca–2018–40]

Self–Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Regarding Investments of the REX BKCM ETF

December 6, 2018.

On June 26, 2018, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change seeking to modify certain investments of the REX BKCM ETF, a series of the Exchange Listed Funds Trust, the shares of which are currently listed and traded on the Exchange under NYSE Arca Rule 8.600–E, Managed Fund Shares. The proposed rule change was published for comment in the **Federal Register** on July 3, 2018.[3] On August 14, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5]

On September 24, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[8] provides that after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on July 3, 2018. December 30, 2018, is 180 days from that date, and February 28, 2019, is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[9] designates February 28, 2019, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No.SR–NYSEArca–2018–40).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26829 Filed 12–11–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84737; File No. SR–NYSEArca–2018–74]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rules 6.62–O and 6.37A–O To Add New Order Types and Quotation Designations

December 6, 2018.

I. Introduction

On October 5, 2018, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Arca Rules 6.62–O (Certain Types of Orders Defined) and 6.37A–O (Market Maker Quotations) to add new order types and quotation designations. The proposed rule change was published for comment in the **Federal Register** on October 24, 2018.[3] On December 4, 2018, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

A. Order Types

Currently, Rule 6.62–O sets forth the order types available on the Exchange, including Liquidity Adding Orders (each an ''ALO'') and PNP (Post No Preference) Orders, both of which provide market participants control over how their orders interact with contra-side liquidity. Specifically, an ALO is a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83546 (June 28, 2018), 83 FR 31214 (July 3, 2018).

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 83844 (Aug. 14, 2018), 83 FR 42178 (Aug. 20, 2018).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 84275 (Sept. 24, 2018), 83 FR 49142 (Sept. 28, 2018). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' *See id.* at 49143 (citing 15 U.S.C. 78f(b)(5)).

[8] 15 U.S.C. 78s(b)(2).

[9] *Id.*

[10] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84451 (October 18, 2018), 83 FR 53692 (''Notice'').

[4] In Amendment No. 1, the Exchange made technical corrections to cross references in the proposed rule text. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. The amendment is available at: *https://www.sec.gov/comments/sr-nysearca-2018-74/srnysearca201874.htm.*

Limit Order that is rejected if it is marketable against the NBBO on arrival.[5] A PNP Order is a Limit Order that is eligible to interact solely with interest on the Exchange, will not route, and will cancel if it locks or crosses the NBBO.[6] The Exchange proposes to amend Rule 6.62–O to add two order types that build on the existing ALO and PNP Order functionality to allow for repricing (rather than cancellation or rejection of orders) under certain circumstances.

1. Repricing ALO (''RALO'')

The Exchange proposes to provide market participants the ability to send in ALOs designated as RALO.[7] As proposed, a RALO will be repriced (rather than be rejected) if it would either trade as the liquidity taker or display at a price that locks or crosses any interest on the Exchange or the NBBO.[8] Specifically, an incoming RALO to buy (sell) that would trade with any displayed or undisplayed sell (buy) interest on the Consolidated Book will be displayed at a price one minimum price variation (''MPV'') below (above) such sell (buy) interest.[9] An incoming RALO to buy (sell) that is not marketable against interest in the Consolidated Book but that would lock or cross the NBO (NBB) will be displayed at a price that is one MPV below (above) the NBO (NBB).[10] If the sell (buy) interest in the Consolidated Book or NBO (NBB) moves up (down), the display price of the RALO to buy (sell) and the undisplayed price at which it is eligible to trade will be continuously adjusted, up (down) to the RALO's limit price.[11]

A resting RALO to buy (sell) that is displayed one MPV below (above) interest on the Consolidated Book would be eligible to trade at its display price.[12] A resting RALO to buy (sell) that is displayed at a price one MPV below (above) the NBO (NBB) would be eligible to trade at the NBO (NBB); provided, however, that if the NBO (NBB) updates to lock or cross the RALO's display price, such RALO will trade at its display price in time priority behind other eligible interest already displayed at that price.[13] Each time there is an update to the price of the RALO, the Exchange will rank the RALO by time priority behind other eligible interest already at that price.[14] If multiple RALOs simultaneously reprice to the same price at which they are eligible to trade, the RALOs will be prioritized based on the time of original order entry.[15] Furthermore, an incoming RALO will be cancelled if its limit price to buy (sell) is more than a configurable number of MPVs above (below) the initial display price (on arrival), after first trading with eligible interest, if any.[16] The Exchange will determine the configurable number of MPVs, which will be announced by Trader Update.[17]

2. Repricing PNP Order (''RPNP'')

The Exchange proposes to provide market participants the ability to send in PNP Orders designated as RPNP.[18] As proposed, a RPNP is a PNP Order that will be repriced instead of cancelled after trading with interest in the Consolidated Book, if it would lock or cross the NBBO.[19] Specifically, a RPNP to buy (sell) that would lock or cross the NBO (NBB) will be displayed at a price one MPV below (above) the NBO (NBB).[20] If the NBO (NBB) moves up (down), the display price of the RPNP to buy (sell) and the undisplayed price at which it is eligible to trade will be continuously adjusted, up (down) to the limit price of the RPNP.[21]

A RPNP to buy (sell) that is displayed at a price one MPV below (above) the NBO (NBB) will trade at the NBO (NBB); provided, however, that if the NBO (NBB) updates to lock or cross the RPNP's display price, such RPNP will trade at its display price in time priority behind other eligible interest already displayed at that price.[22] Each time there is an update to the price of the RPNP, the Exchange will rank the RPNP by time priority behind other eligible interest already at that price.[23] If multiple RPNPs simultaneously reprice to the same price at which they are eligible to trade, the RPNPs will be prioritized based on the time of original order entry.[24] Similar to the proposed RALO, an incoming RPNP will be cancelled if its limit price to buy (sell) is more than a configurable number of MPVs above (below) the initial display price (on arrival), after first trading with eligible interest, if any. The Exchange will determine the configurable number of MPVs, which will be announced by Trader Update.

B. Quotation Designations

Currently, Rule 6.37A–O(a) defines Market Maker quotes, including quotations designated as Market Maker—Light Only (''MMLO''), and specifies how such quotes are processed when a series is open for trading. The Exchange proposes to amend Rule 6.37A–O(a) to add two new quote designations to provide Market Makers with the same functionality for their quotations as are proposed for orders designated as RALO and RPNP entered on the Exchange.[25]

1. Market Maker—Add Liquidity Only Quotation (''MMALO'')

The Exchange proposes to provide Market Makers the ability to designate quotations as MMALO.[26] An incoming or resting MMALO will never trade as the liquidity taker or display at a price that locks or crosses any interest on the Exchange or the NBBO.[27] Instead of

[5] *See* Rule 6.62–O(t) (providing that ''a Liquidity Adding Order is a Limit Order which is to be accepted only if it is not executable at the time of receipt. Orders with the liquidity adding instruction will not be routed if marketable against the NBBO, but will be rejected. Liquidity adding orders may only be entered as a Day Order''). The Exchange proposes to modify paragraph (t) of this Rule to define Liquidity Adding Orders as ''ALOs'' and make conforming changes to the Rule. *See* proposed Rule 6.62–O(t). The Exchange also proposes to modify the Rule to reflect that ''[a]n ALO or RALO, as defined in paragraph (t)(1) of this Rule, will be rejected if entered outside of Core Trading Hours or during a trading halt or, if resting, will be cancelled in the event of a trading halt.'' *See id.*

[6] *See* Rule 6.62–O(p) (providing that a PNP Order ''is a Limit Order to buy or sell that is to be executed in whole or in part on the Exchange, and the portion not so executed is to be ranked in the Consolidated Book, without routing any portion of the order to another market center; provided, however, the Exchange shall cancel a PNP Order that would lock or cross the NBBO''). The Exchange proposes to capitalize the ''Market Center'' as used in paragraph (p) of the Rule, which is a defined term in Rule 6.1A–O(6). *See* proposed Rule 6.62–O(p).

[7] *See* proposed Rule 6.62–O(t)(1). The Exchange also proposes that a RALO that is designated as a Reserve Order will be rejected. *See id.*

[8] *See id.*

[9] *See* proposed Rule 6.62–O(t)(1)(A).

[10] *See id.*

[11] *See id.*

[12] *See* proposed Rule 6.62–O(t)(1)(A)(i).

[13] *See* proposed Rule 6.62–O(t)(1)(A)(ii).

[14] *See* proposed Rule 6.62–O(t)(1)(A)(iii).

[15] *See id.*

[16] *See* proposed Rule 6.62–O(t)(1)(B).

[17] *See id.*

[18] *See* proposed Rule 6.62–O(p)(1). The Exchange proposes that a RPNP received during pre-open or a trading halt will be treated as a PNP Order (*i.e.,* as a Limit Order and will not reprice) for purposes of participating in opening auctions or re-opening auctions. *See* proposed Rule 6.62–O(p). A RPNP may only be entered as a Day Order and a RPNP that is designated as a Reserve Order will be rejected. *See* proposed Rule 6.62–O(p)(1).

[19] *See id.*

[20] *See* proposed Rule 6.62–O (p)(1)(A).

[21] *See id.*

[22] *See* proposed Rule 6.62–O(p)(1)(A)(i).

[23] *See* proposed Rule 6.62–O(p)(1)(A)(ii).

[24] *See id.*

[25] *See* Notice, *supra* note 3, at 53695. The Exchange represents that the proposed quotation designations would function similar to the proposed RALO and RPNP. *See id.*

[26] *See* proposed Rule 6.37A–O(a)(3)(B) and (a)(4)(A)(i). The Exchange proposes to delete a reference to MMLO in paragraph (a)(4) and proposes to separately describe the treatment of the various quote types when a series is open for trading. *See* proposed Rule 6.37A–O(a)(4).

[27] Because incoming quotations, other than an MMALO, would immediately ''trade with contra-

trading, an MMALO will be repriced based on contra-side interest pursuant to proposed Rule 6.37A–O(a)(4)(A).[28] Specifically, an incoming MMALO to buy (sell) that would trade with any sell (buy) interest on the Consolidated Book will be displayed at a price one MPV below (above) such sell (buy) interest.[29] An incoming MMALO to buy (sell) that is not marketable against interest in the Consolidated Book but that would lock or cross the NBO (NBB) will be displayed at a price that is one MPV below (above) the NBO (NBB).[30] If the sell (buy) interest in the Consolidated Book or NBO (NBB) moves up (down), the display price of the MMALO to buy (sell) and the undisplayed price at which it is eligible to trade will be continuously adjusted, up (down) to the MMALO's limit price.[31]

Similar to the proposed RALO, a resting MMALO to buy (sell) that is displayed one MPV below (above) interest on the Consolidated Book will trade at its display price.[32] A resting MMALO to buy (sell) that is displayed at a price one MPV below (above) the NBO (NBB) will trade at the NBO (NBB); provided, however, that if the NBO (NBB) updates to lock or cross the MMALO's display price, such MMALO will trade at its display price in time priority behind other eligible interest already displayed at that price.[33] Each time there is an update to the MMALO's price, the Exchange will rank the MMALO by time priority behind other eligible interest already at that price.[34] If multiple MMALOs simultaneously reprice to the same price at which they are eligible to trade, the MMALOs will be prioritized based on the time of original order entry.[35]

To incorporate MMALO (and MMRP discussed below) into existing rule text, the Exchange proposes to amend Rule 6.37A–O by re-organizing and re-numbering related rule text regarding the treatment of untraded incoming quotations. Specifically, the Exchange proposes to provide that ''[a]ny untraded quantity of an incoming quotation will be added to the Consolidated Book, except in the circumstances specified below, which result in the remaining balance being cancelled,'' [36] including when the incoming quotation ''is not designated as MMALO or MMRP'' and locks or crosses the NBBO and when it is designated as MMLO and locks or crosses undisplayed interest.[37] Similarly, the Exchange proposes to modify Rule 6.37A–O(a)(4) to provide that an incoming quotation that locks or crosses the NBBO would be rejected, so long as ''it is not designated as MMALO or MMRP'' and cannot trade with interest in the Consolidated Book at prices that do not trade through the NBBO.[38]

An incoming quotation will be rejected, and the Exchange will cancel the Market Maker's current quotation on the same side of the market, if it is designated as MMALO, and has a limit price to buy (sell) that is more than a configurable number of MPVs above (below) the initial display price of the MMALO.[39] The Exchange will determine the configurable number of MPVs, which will be announced by Trader Update.

2. Market Maker—Repricing Quotation (''MMRP'')

The Exchange proposes to provide Market Makers the ability to designate quotations as MMRP.[40] An incoming or resting quotation designated as MMRP will never display at a price that locks or crosses the NBBO.[41] Instead, after trading with interest in the Consolidated Book, an incoming MMRP to buy (sell) that locks or crosses the NBO (NBB) will be displayed at a price that is one MPV below (above) the NBO (NBB).[42] If the NBO (NBB) moves up (down), the display price of the MMRP to buy (sell) and the undisplayed price at which it is eligible to trade would be continuously adjusted, up (down) to the MMRP's limit price.[43]

Similar to the proposed RPNP, an MMRP to buy (sell) that is displayed at a price one MPV below (above) the NBO (NBB) will trade at the NBO (NBB); provided, however, that if the NBO (NBB) updates to lock or cross the MMRP's display price, such MMRP will trade at its display price in time priority behind other eligible interest already displayed at that price.[44] Each time there is an update to the price of the MMRP, the Exchange will rank the MMRP by time priority behind other eligible interest already at that price.[45] If multiple MMRPs simultaneously reprice to the same price at which they are eligible to trade, the MMRPs will be prioritized based on the time of original order entry.[46]

An incoming MMRP that has a limit price more than a configurable number of MPVs above (below) the initial display price (on arrival) will first trade with marketable interest in the Consolidated Book up (down) to the NBO (NBB) and any remaining balance will be cancelled.[47] Similarly, the Exchange will reject an incoming MMRP that does not trade (*i.e.,* because there is no marketable interest in the Consolidated Book) and has a limit price to buy (sell) that is more than a configurable number of MPVs above (below) the initial display price (on arrival) of the MMRP.[48] The Exchange will determine the configurable number of MPVs, which will be announced by Trader Update.[49]

When a series is not open for trading (*i.e.,* during pre-open or a trading halt), a Market Maker may submit an MMRP, which will be eligible to participate in the opening auction and re-opening auction, as applicable, at the limit price of the MMRP.[50] All resting quotations will be cancelled in the event of a trading halt.[51]

To reflect the proposed quotation designations in Rule 6.37A–O, the Exchange proposes to re-organize paragraph (a) of the Rule by re-locating rule text stating that ''a quotation will

side interest in the Consolidated Book at prices that do not trade through interest on another Market Center,'' the Exchange proposes to modify the rule to carve out incoming MMALOs. *See* proposed Rule 6.37A–O(a)(4)(A). The Exchange also proposes to replace references to ''another Market Center'' with ''the NBBO'' to add clarity and consistency to the Rule. *See id. See also* proposed Rule 6.37A–O(a)(4)(C)(i),(D)(i)–(ii).

[28] *See* proposed Rule 6.37A–O(a)(3)(B).

[29] *See* proposed Rule 6.37A–O(a)(4)(A)(i).

[30] *See id.*

[31] *See id.*

[32] *See* proposed Rule 6.37A–O(a)(4)(A)(i)(a).

[33] *See* proposed Rule 6.37A–O(a)(4)(A)(i)(b).

[34] *See* proposed Rule 6.37A–O(a)(4)(A)(i)(c).

[35] *See id.*

[36] *See* proposed Rule 6.37A–O(a)(4)(C).

[37] *See* proposed Rule 6.37A–O(a)(4)(C)(i) and (ii).

[38] *See* proposed Rule 6.37A–O(a)(4)(D)(i).

[39] *See* proposed Rule 6.37A–O(a)(4)(D)(iii). The Exchange notes that incoming MMALOs that fail the MPV check are rejected while similarly-priced RALOs would be accepted and then cancelled. *See* Notice, *supra* note 3, at 53696, n.24. The Exchange also proposes to re-locate rule text that is currently at the end of this provision to the beginning, such that the Rules states that ''[a]n incoming quotation will be rejected, and the Exchange will cancel the Market Maker's current quotation on the same side of the market, if:''. *See* proposed Rule 6.37A–O(a)(4)(D).

[40] *See* proposed Rule 6.37A–O(a)(3)(C) and (a)(4)(B).

[41] *See* proposed Rule 6.37A–O(a)(3)(C).

[42] *See* proposed Rule 6.37A–O(a)(4)(B).

[43] *See id.*

[44] *See* proposed Rule 6.37A–O(a)(4)(B)(i).

[45] *See* proposed Rule 6.37A–O(a)(4)(B)(ii).

[46] *See id.*

[47] *See* proposed Rule 6.37A–O(a)(4)(C)(iii).

[48] *See* proposed Rule 6.37A–O(a)(4)(D). The Exchange notes that incoming MMRPs that fail the MPV check are rejected while similarly-priced RPNPs would be accepted and then cancelled. *See* Notice, *supra* note 3, at 53696, n.32.

[49] Because the MMRP is cancelled, the Exchange would also cancel the opposite-side quote for that Market Maker. *See* proposed Rule 6.37A–O(a)(4)(C) (providing, ''[w]hen such quantity of an incoming quotation is cancelled, the Exchange will also cancel the Market Maker's current quotation on the opposite side of the market'').

[50] *See* proposed Rule 6.37A–O(a)(5).

[51] *See id.*

not route'' from existing paragraph (a)(3)(D) to paragraph (a)(2); adding new paragraph (a)(3) to provide that ''[a] Market Maker may designate a quote as follows''; and re-numbering the remainder of the paragraph to account for such changes.[52] In addition, the Exchange proposes to renumber the description of an MMLO as paragraph (a)(3)(A), and amend the rule text to provide that on arrival, a quotation designated MMLO will trade with displayed interest in the Consolidated Book only.[53] Once resting, the MMLO designation no longer applies and such quotation is eligible to trade with displayed and undisplayed interest.[54]

Implementation

The Exchange states that it will announce by Trader Update the implementation date of the proposed rule change within 90 days of the effective date of this proposed rule change.[55]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act,[56] and the rules and regulations thereunder applicable to a national securities exchange.[57] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[58] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating 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 not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that by providing market participants with two new order types that build on the existing ALO and PNP Order functionality to allow for repricing instead of cancellation or rejection of orders under certain circumstances, the proposed rule change could give market participants greater flexibility and control over the circumstances under which their orders interact with contra side-interest on the Exchange. By increasing the opportunities for execution at multiple price points and encouraging the provision of greater displayed liquidity to the market, the proposal is reasonably designed to facilitate the mechanism of price discovery. The Commission also believes that ranking a repriced RALO or repriced RPNP behind other interest already eligible to trade at a price, as well as ranking such orders that simultaneously reprice to the same price by time of original order entry, is reasonably designed to preserve the principles of priority and therefore promote just and equitable principles of trade. Finally, the Commission notes other options exchanges offer similar order types as proposed by the Exchange.[59]

The Commission notes that the proposal to add the two new quotation designations is designed to provide Market Makers with the same functionality for their quotations as are proposed for orders entered on the Exchange. The proposed quotation designations are similar to how the proposed RALO and RPNP will function and may enable Market Makers to exert greater control over how their quotes would interact with contra-side liquidity, while affording additional opportunities to provide liquidity to the market. The Commission notes that, absent the proposed repricing functionality associated with the MMALO and MMRP, a Market Maker quote that locks or crosses interest on the Exchange or an away market will reject or cancel. In the case of MMALOs, the proposal is reasonably designed to promote the display of liquidity because such quotations would be displayed at the next-best aggressive price instead of being cancelled. The Commission believes that the proposal will also ensure that an MMALO will always add liquidity as maker, rather than remove liquidity as taker, while ensuring that MMALOs priced too far through the contra-side interest on the Exchange or the NBBO will be rejected. As such, the proposed MMALO could assist Market Makers in maintaining a fair and orderly market and encourage Market Makers to provide displayed liquidity to the market, thus contributing to price discovery. In the case of MMRPs, the proposal may afford Market Makers more certainty when providing liquidity, while ensuring that MMRPs priced too far through the contra-side NBBO will cancel or reject after trading with any eligible interest on the Exchange. The Commission believes that ranking the repriced MMALO or repriced MMRP by time priority behind other interest already available to trade at a price preserves principles of priority and therefore would promote just and equitable principles of trade.

Further, the Commission believes that the proposed quotation designations are reasonably designed to provide Market Makers with a greater level of determinism, in terms of managing their exposure, and thus could encourage more aggressive liquidity provision, resulting in more trading opportunities and tighter spreads. This may help improve the mechanism of price discovery. Moreover, the Commission notes that other options exchanges have adopted quote types designed to strengthen market making.[60]

For the reasons discussed above, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[61] that the proposed rule change (SR–NYSEArca–2018–74), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[62]

Eduardo A. Aleman,

Assistant Secretary.

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[52] *See* proposed Rule 6.37A–O(a)(2)–(3).

[53] *See* proposed Rule 6.37A–O(a)(3)(A).

[54] *See id.*

[55] *See* Notice, *supra* note 3, at 53697.

[56] 15 U.S.C. 78(f).

[57] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[58] 15 U.S.C. 78f(b)(5).

[59] *See* Notice, *supra* note 3, at 53697, n.39 (citing Nasdaq Options Market Chapter VI Trading Systems, Sec. 1(e)(11) and Nasdaq PHLX LLC Rule 1080(m)(iv)(A)).

[60] *See* Notice, *supra* note 3, at 53698, n.45 (citing Miami International Securities Exchange, LLC Rule 515(d) and BOX Options Exchange LLC IM–8050–3).

[61] 15 U.S.C. 78s(b)(2).

[62] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84741; File No. SR–ISE–2018–97]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .02 to Rule 715 Regarding Cancel and Replace Orders

December 6, 2018.

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 29, 2018 Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Supplementary Material .02 to Rule 715 regarding Cancel and Replace Orders.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Supplementary Material .02 to Rule 715 regarding Cancel and Replace Orders to: (i) Correct an inconsistency between the Exchange's rule text and the operation of the System [3] by removing the reference to Rule 710, (ii) update rule cross-references, and (iii) make other non-substantive, technical changes.

Today, a member has the option of either sending in a cancel order and then separately sending in a new order which serves as a replacement of the original order (two separate messages), or sending a single cancel and replace order in one message (*i.e.,* a Cancel and Replace Order). Specifically, Supplementary Material .02 to Rule 715 defines a Cancel and Replace Order as a single message for the immediate cancellation of a previously received order and the replacement of that order with a new order.[4] The replacement portion of the Cancel and Replace Order is treated as a new order and therefore goes through price or other reasonability checks as a result of being viewed as such.[5] If the replacement portion of a Cancel and Replace Order does not satisfy the System's price or other reasonability checks, the existing order will be cancelled and not replaced.[6] The Exchange notes, however, that when it initially codified Cancel and Replace Orders in its Rulebook as part of SR–ISE–2017–03, it inadvertently included Rule 710 within the list of price reasonability checks. In SR–ISE–2017–03, the Exchange explained that the System conducts price or other reasonability checks for Cancel and Replace Orders to validate such orders against the current market conditions prior to proceeding with the request to modify the order.[7] Rule 710, which relates to the minimum price variations applicable to options series traded on the Exchange, does not involve the System considering the current market at the time of the Cancel and Replace Order, and an incoming Cancel and Replace Order that fails the minimum price variation checks in Rule 710 would not result in the existing order being cancelled and not replaced.[8] The Exchange therefore proposes to remove the reference to Rule 710 from the list of price or other reasonability checks to conform its rule text to the System.

The Exchange also proposes to update the various rule references related to the price reasonability checks within this provision to refer to the current rules.[9] Finally, the Exchange proposes other non-substantive, technical changes within Supplementary Material .02 to Rule 715 to capitalize ''Cancel and Replace *O*rder'' for consistency, and to capitalize ''System,'' which is a defined term.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] 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 corrects an inadvertent error in Supplementary Material .02 to Rule 715, which currently includes Rule 710 within the list of price or other reasonability checks. As discussed above, including Rule 710 is inconsistent with the operation of the Exchange's System because an incoming Cancel and Replace Order which fails the minimum price variation checks in Rule 710 does not result in the existing order getting cancelled and not replaced. This rule change would amend the rule text to reflect ISE's current practice, and should avoid potential confusion about how the System processes Cancel and Replace Orders today.[12] Furthermore, the Exchange's proposal to update the rule references and make other non-substantive technical changes, as further described above, will bring greater transparency to its Rulebook thereby protecting investors and the public interest by reducing potential for investor confusion.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Rule 100(a)(63).

[4] If the previously placed order is already filled partially or in its entirety, the replacement order is automatically cancelled or reduced by the number of contracts that were executed. *See* Supplementary Material .02 to Rule 715.

[5] Supplementary Material .02 to Rule 715 further provides how the replacement portion may retain the priority of the original order, provided certain specified conditions are met. The manner in which the Exchange treats priority with respect to Cancel and Replace Orders is not changing under this proposal.

[6] *See* Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR–ISE–2017–03) (memorializing Cancel and Replace Orders in Supplementary Material .02 to Rule 715 as part of the Exchange's system migration to INET technology).

[7] *Id.*

[8] In this instance, the System would simply reject the cancel and replace message as an invalid instruction. The Exchange notes that the previous T7 system likewise treated Cancel and Replace Orders in this manner.

[9] In particular, Rules 711(c) and 714(b)(2) are now Rules 714(b)(1)(B) and 714(b)(1)(A), respectively, pursuant to SR–ISE–2018–80. *See* Securities Exchange Act Release No. 84237 (September 20, 2018), 83 FR 48660 (September 26, 2018). Rule 722(b)(1) is now Rule 722(c)(1) pursuant to SR–ISE–2018–56. *See* Securities Exchange Act Release No. 84373 (October 5, 2018), 83 FR 51730 (October 12, 2018). Finally, paragraphs (b), (c), and (d) of Supplementary Material .07 to Rule 722 are now paragraphs (a)(1)(A), (b), and (c)(1), respectively, pursuant to SR–ISE–2018–55. *See* Securities Exchange Act Release No. 83464 (June 19, 2018), 83 FR 29583 (June 25, 2018).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* note 8 above.

of the purposes of the Act. All of the proposed changes are intended to bring greater transparency to the Exchange's Rulebook, and therefore does not unduly burden competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2018–97 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2018–97. 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–ISE–2018–97 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26836 Filed 12–11–18; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84742; File No. SR–NYSEAMER–2018–53]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE American Rule 5.1E(a)(2)

December 6, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 27, 2018, NYSE American LLC (''Exchange'' or ''NYSE American'') 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 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 NYSE American Rule 5.1E(a)(2) to remove the requirement that the Exchange file with the Securities and Exchange Commission (the ''Commission'') a Form 19b–4(e) for each ''new derivative securities product'' that will commence trading on the Exchange pursuant to unlisted trading privileges. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend NYSE American Rule 5.1E(a)(2)(A) to remove the requirement that the Exchange file with the Commission a Form 19b–4(e) for each ''new derivative securities product'' that will commence trading on the Exchange pursuant to unlisted trading privileges. The Exchange also proposes to renumber the remaining subsections of NYSE American Rule 5.1E(a)(2) to maintain an organized rule structure. The Exchange notes that a substantially identical proposed rule change by NYSE National, Inc. (''NYSE National'') was recently approved by the Commission.[4]

NYSE American Rule 5.1E(a)(2)(A) sets forth the requirement for the Exchange to file with the Commission a Form 19b–4(e) with respect to each ''new derivative securities product'' that is traded pursuant to unlisted trading privileges. However, the Exchange believes that it should not be necessary to file a Form 19b–4(e) with the Commission if it begins trading a ''new derivative securities product'' pursuant to unlisted trading privileges, because Rule 19b–4(e)(1) under the Act refers to the ''listing and trading'' of a ''new derivative securities product.'' The Exchange believes that the requirements of that rule refer to when an exchange lists and trades a ''new derivative securities product'', and not when an exchange seeks only to trade such product pursuant to unlisted trading privileges pursuant to Rule 12f–2 under the Act.[5] Therefore, the Exchange proposes to delete the requirement in current NYSE American Rule 5.1E(a)(2)(A) for the Exchange to file a Form 19b–4(e) with the Commission with respect to each ''new derivative securities product'' it begins trading pursuant to unlisted trading privileges. In addition, as a result of the deletion of current NYSE American Rule 5.1E(a)(2)(A), the Exchange proposes to renumber current NYSE American Rules 5.1E(a)(2)(B)–(F).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[6] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, eliminating the requirement to file a Form 19b–4(e) for each ''new derivative securities product'' the Exchange begins trading on an unlisted trading privileges basis removes an unnecessary regulatory requirement thereby providing for a more efficient process for adding a ''new derivative securities product'' to trading on the Exchange on an unlisted trading privileges basis.

As noted above, the Commission recently approved a substantially identical proposed rule change by NYSE National.[8] In particular, the Commission noted in the approval order that it ''believes that the filing of a Form 19b–4(e) is not required when an Exchange is trading a new derivative securities product on a UTP basis only''[9] and also found that the NYSE National's proposed rule change is ''consistent with the requirements of Section 6(b)(5) of the Act.''[10] The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq PHLX LLC (''PHLX''), Nasdaq BX, Inc. (''BX'') and Investors Exchange LLC (''IEX'') also recently amended their rules to remove the requirement to file with the Commission a Form 19b–4(e) for each ''new derivative securities product'' traded on each of those exchanges pursuant to unlisted trading privileges.[11]

With respect to the renumbering of current NYSE American Rules 5.1E(a)(2)(B)–(F), the Exchange believes that these changes are consistent with the Act because they will allow the Exchange to maintain a clear and organized rule structure, thus preventing investor confusion.

For these reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, removing the requirement to file a Form 19b–4(e) will serve to enhance competition by providing for the efficient addition of new derivative securities products for trading pursuant to unlisted trading privileges on the Exchange. To the extent that a competitor marketplace believes that the proposed rule change places it at a competitive disadvantage, it may file with the Commission a proposed rule change to adopt the same or similar rule.

In addition, the proposal to renumber current NYSE American Rules 5.1E(a)(2)(B)–(F) does not impact competition in any respect since it merely maintains a clear and organized rule structure.

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 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[12] and Rule 19b–4(f)(6) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that the Exchange's proposal does not present any new or novel issues. Thus, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the

[4] *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (Order Approving File No. SR–NYSENat–2018–02).

[5] 17 CFR 240.12f–2.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (Order Approving File No. (SR–NYSENat–2018–02).

[9] *See supra* note 10 [sic] at page 23975 at footnote 149.

[10] *See supra* note 10 [sic] at page 23975–6.

[11] *See* Securities Exchange Act Release Nos. 84488 (October 25, 2018), 83 FR 54801 (October 31, 2018) (SR–NASDAQ–2018–082); 84542 (November 6, 2018), 83 FR 56385 (November 13, 2018) (SR–Phlx–2018–67); 84546 (November 7, 2018), 83 FR 56888 (November 14, 2018) (SR–BX–2018–051); and 83609 (July 9, 2018), 83 FR 32704 (July 13, 2018) (SR–IEX–2018–14).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires 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.

public interest and hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[14]

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–NYSEAMER–2018–53 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–2018–53. 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–2018–53 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26837 Filed 12–11–18; 8:45 am]

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[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84728; File No. SR–MRX–2018–36]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Bid/Ask Differentials

December 6, 2018.

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 28, 2018, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend MRX Rule 701, entitled ''Opening,'' MRX Rule 803, entitled ''Obligations of Market Makers'' and MRX Rule 100, entitled ''Definitions.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[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

MRX proposes several amendments in this rule change. First, the Exchange proposes to amend MRX Rule 701, entitled ''Opening'' and MRX Rule 803, entitled ''Obligations of Market Makers'' to correct inconsistencies between the Exchange's rule text and the operation of the System. Second, the Exchange proposes to add definitions to MRX Rule 100 to define ''in-the-money'' and ''out-of-the-money'' options series. Third, the Exchange proposes to correct various cross references to Rule 100. Each amendment will be described in more detail below.

Rules 701 and 803

Today, for the Opening Process, MRX Rule 701(a)(8) defines a ''Valid Width Quote'' as a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4).[3] Specifically, for the Opening Process, MRX Rule 803(b)(4) states that, for in-

[3] MRX Rule 803(b)(4) provides:

''To price options contracts fairly by, among other things, bidding and offering so as to create differences of no more than $5 between the bid and offer following the opening rotation in an equity or index options contract. Prior to the opening rotation, spread differentials shall be no more than $.25 between the bid and offer for each options contract for which the bid is less than $2, no more than $.40 where the bid is at least $2 but does not exceed $5, no more than $.50 where the bid is more than $5 but does not exceed $10, no more than $.80 where the bid is more than $10 but does not exceed $20, and no more than $1 where the bid is $20 or greater, provided that the Exchange may establish differences other than the above for one or more options series.

(i) The bid/offer differentials stated in subparagraph (b)(4) of this Rule shall not apply to in-the-money options series where the underlying securities market is wider than the differentials set forth above. For these series, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security.''

the-money option series, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. In practice, however, the Exchange's System permits a Valid Width Quote in the Opening Process to be as wide as the quotation for the underlying security on the primary (listing) market.[4]

Proposal

The Exchange proposes to codify its current practice and correctly reflect in its Rules that the Valid Width Quote in the Opening Process apply a primary market analysis, not a national best bid or offer (''NBBO'') analysis.[5] Specifically, this proposal would conform the current rule text to the current System by amending the definition of a Valid Width Quote in Rule 701, ''Opening,'' so that, in the case of in-the-money option series [6] where the market for the underlying security is wider than the differentials set forth within MRX Rule 803(b)(4), the bid/ask differential may be as wide as the quotation for the underlying security on the primary [7] (listing) market, or its decimal equivalent rounded down to the nearest minimum increment.

The Exchange believes that utilizing the primary market in the Opening Process is reasonable given the close connection between the primary market and the Opening Process. For example, MRX Rule 701(c)(2) provides, ''For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.''

Today, in order to open, the Exchange requires either: (i) The Primary Market Maker's (''PMM'') Valid Width Quote; (ii) the Valid Width Quotes of at least two Competitive Market Makers (''CMM''); or (iii) if neither the PMM's Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote. The Exchange notes that it requires Market Makers to submit Valid Width Quotes during the Opening Process to guarantee liquidity, unlike other markets which may not require market makers to quote during the opening.[8] Further, amending the rule text to conform to its current practice will avoid confusion and continue to permit MRX to remain one of the strongest openings in the industry.

Discretion

The Exchange proposes to codify its current practice and amend MRX Rule 803(b)(4) to adopt rule text which permits the Exchange intra-day discretion for bid/ask differentials similar to the discretion currently permitted in the Opening Process. The Exchange proposes to add a sentence to the end of the paragraph in MRX Rule 803(b)(4) indicating the Exchange may establish differences other than the above for one or more series or classes of options. The Exchange notes that it utilizes this discretion today to grant relief for individual options classes as well as relief for all option classes based upon specific criteria. Today, Market Makers may request quote relief. When determining whether to grant quote relief the Exchange considers, among other factors, the following: (i) Pending corporate actions with undisclosed or uncertain terms; (ii) company or industry news with anticipated significant market impact; (iii) government news of a sensational nature. The Exchange believes that it is necessary to grant quote relief in certain circumstances where a Market Maker may not have enough information to maintain fair and orderly markets. The Exchange notes that other markets have similar discretion for intra-day quotes today.[9]

Rule 100

MRX rules currently do not define an ''in-the-money'' or ''out-of-the-money'' option series. As part of this rule change, the Exchange proposes to define these above-referenced terms within MRX Rule 100 to bring greater transparency to its rules with respect to Market Maker quoting. The Exchange proposes to define the term ''in-the-money'' at Rule 100(a)(28), which is currently reserved, as the following: For call options, all strike prices at or below the offer in the underlying security on the primary listing market; for put options, all strike prices at or above the bid in the underlying security on the primary listing market. The Exchange proposes to define the term ''out-of-the-money'' option at Rule 100(a)(41), which is currently reserved, to mean the following: For call options, all strike prices above the offer in the underlying security on the primary listing market; for put options, all strike prices below the bid in the underlying security on the primary listing market.[10] Each of these definitions would apply for purposes of Market Maker quoting obligations in Rules 701 and 803. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules.

The Exchange has added these definitions into the existing rules in alphabetical order. The Exchange proposes to renumber the rules to account for the addition of these two new definitions and proposes to amend cross-references to Rule 100 within the Rulebook to reflect the proposed new numbering within Rule 100.

Cross References

The Exchange proposes to amend cross-references to Rule 100 in Rules 713 and 720 to refer to the current definitions.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] 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

[4] In connection with the MRX migration, the primary market was utilized beginning on August 14, 2017 as each symbol migrated to the INET platform.

[5] The Exchange notes that today MRX utilizes the primary market in calculating the bid/ask differential during the Opening Process. This rule change would amend the rule to reflect MRX's current practice.

[6] An at-the-money option series would also qualify. An out-of-the-money series would not qualify.

[7] The term ''primary market'' means the principal market in which an underlying security is traded. *See* MRX Rule 100(a)(51).

[8] The Nasdaq Options Market (''NOM'') does not require NOM Market Makers to quote during the opening, however if a NOM Market Maker decided to quote during the opening, the Market Maker would be permitted to submit a bid/ask differential with a difference not to exceed $5 between the bid and offer regardless of the price of the bid. However, respecting in-the-money series where the market for the underlying security is wider than $5, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. *See* NOM Rules at Chapter VII, Section 6(d)(ii).

[9] *See* Nasdaq Phlx LLC Rule 1014(c)(i)(A)(1)(a), Miami International Securities Exchange LLC Rule 604b)(4), Cboe Exchange, Inc. Rule 8.7(d), NYSE American LLC Rule 925NY(b)(4), NYSE Arca, Inc. 6.37–O(b)(4).

[10] The Exchange notes that it does not utilize a last sale calculation. The Exchange believes that the quotation for the underlying security on the primary market provides an accurate reflection of the market. A last sale calculation may not be an accurate reflection of the market because the last sale may not be representative of the primary market in all cases, particularly if a halt were to occur.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

investors and the public interest. The Exchange notes that today MRX utilizes the primary market in calculating the bid/ask differential during the Opening Process, although the current rule does not reflect this practice. This rule change would amend the rule to reflect MRX's current practice.

Rules 701 and 803

The Exchange's proposal to amend the Opening Process to conform to current practice is consistent with the Act because while the Exchange believes that relying on the primary market or the NBBO accurately reflect the current trading environment and take into consideration market conditions, the Exchange's current Opening Process is designed to utilize the primary standard during the Opening Process.[13]

Discretion

The Exchange's proposal to amend its rule to permit intra-day discretion to conform to current practice is consistent with the Act because such discretion is necessary to permit the Exchange the ability to attract liquidity from Market Makers while also maintaining a fair and orderly market. Market Makers accept a certain amount of risk when quoting on the Exchange. The Exchange imposes quoting and other obligations on Market Makers.[14] The Exchange notes that these risks which Market Makers accept each trading day are calculated risks. The Exchange notes that it considers certain factors, which are likely unforeseen, in determining whether to grant relief either in individual options classes or for all option classes based upon specific criteria. Specifically, the Exchange considers, among other factors, the following: (i) Pending corporate actions with undisclosed or uncertain terms; (ii) company or industry news with anticipated significant market impact; (iii) government news of a sensational nature. The Exchange believes that it is necessary to grant quote relief in certain circumstances where a Market Maker may not have enough information to maintain fair and orderly markets. The Exchange notes that other markets have similar discretion for intra-day quotes today.[15]

Rule 100

The Exchange's proposal to define the terms ''in-the-money'' and ''out-of-the-money'' for purposes of Market Maker quoting obligations in Rules 701 and 803 is consistent with the Act and protects investors and the public interest by bringing greater transparency to the Rulebook. Each of these defined terms would apply for purposes of Market Maker quoting obligations in Rules 701 and 803. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules.

Cross-References

The Exchange's proposal to amend cross-references to Rule 100 within Rules 713, 720 and Rule 1901 to refer to the current definitions is consistent with the Act because it will correct references to definitions.

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.

Rules 701 and 803

The Exchange's proposal to codify its current practice of utilizing the primary market in the Opening Process does not unduly burden competition because the current practice maintains a close connection between the primary market and the Opening Process. The primary market reflects the current trading environment. The Exchange notes that the proposal does not create an undue burden on intra-market competition because Market Makers are the only market participants subject to quoting requirements and these participants have valuable information with respect to the underlying instrument under the current process to make informed decisions and take calculated risks in the marketplace when providing liquidity. Market Makers remain responsible for maintaining fair and orderly markets.

Discretion

The Exchange's proposal to codify the Exchange's ability to permit intra-day discretion similar to the discretion currently permitted in the Opening Process does not impose an undue burden on competition because Market Makers are the only market participants subject to quoting requirements and the proposal specifically considers the need for Market Makers to have information to make informed decisions to make calculated risks in the marketplace so that they may provide liquidity while maintaining fair and orderly markets. The proposed amendments do not create an undue burden on inter-market competition because other options markets have the same intra-day requirements.[16]

Rule 100

The Exchange's proposal to define the terms ''in-the-money'' or ''out-of-the-money'' for purposes of Market Maker quoting obligations in Rules 701 and 803 does not unduly burden competition, rather it adds greater transparency to the Rulebook and makes clear the applicability of the definitions to avoid confusion with respect to the remainder of the options rules.

Cross-References

The Exchange's proposal to amend cross-references to Rule 100 in Rules 713, 720 and Rule 1901 to refer to the current definitions does not unduly burden competition because it will correct references to definitions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and subparagraph (f)(6) of Rule 19b–4 thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, Rule

[13] MRX Rule 701(c)(2) provides, ''For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.''

[14] *See* MRX Rules 803 and 804.

[15] *See* note 9 above.

[16] *Id.*

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 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 the 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.

[19] 17 CFR 240.19b–4(f)(6).

19b–4(f)(6)(iii)[20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that immediately codifying its current practice within its rules to accurately reflect the operation of the Exchange's System will avoid confusion. 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 as operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2018–36 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2018–36. 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–MRX–2018–36 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26825 Filed 12–11–18; 8:45 am]

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[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33318; 812–14902]

Cliffwater Corporate Lending Fund and Cliffwater LLC

December 6, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees, early withdrawal charges (''EWCs'') and early repurchase fees.

Applicants: Cliffwater Corporate Lending Fund (the ''Initial Fund'') and Cliffwater LLC (the ''Adviser'').

Filing Dates: The application was filed on April 27, 2018, and amended on September 28, 2018.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail.

Hearing requests should be received by the Commission by 5:30 p.m. on December 31, 2018, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: 4640 Admiralty Way, 11th Floor, Marina del Rey, CA 90292.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817, or Kaitlin C. Bottock, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a non-diversified, closed-end management investment company. The Initial Fund's primary investment objective is to seek consistent current income. Capital preservation will be considered a secondary objective.

2. The Adviser, a Delaware limited liability company, is registered as an

investment adviser under the Investment Advisers Act of 1940, as amended. The Adviser will serve as investment adviser to the Initial Fund.

3. The applicants seek an order to permit the Initial Fund to issue multiple classes of shares and to impose asset-based distribution and/or service fees and EWCs.

4. Applicants request that the order also apply to any continuously offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser, or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

5. The Initial Fund anticipates making a continuous public offering of its shares in connection with its registration statement. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Initial Fund anticipates offering Class A Shares and Class I Shares. Each of the Class A Shares and Class I Shares will have their own fee and expense structure. The Funds may in the future offer additional classes of shares and/or another sales charge structure. Because of the different distribution fees, services and any other class expenses that may be attributable to each class of shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

7. Applicants state that, from time to time, the Fund may create additional classes of shares, the terms of which may differ from the initial classes pursuant to and in compliance with rule 18f–3 under the Act.

8. Applicants state that shares of a Fund may be subject to an early repurchase fee (''Early Repurchase Fee'') at a rate of no greater than 2% of the shareholder's repurchase proceeds if the interval between the date of purchase of the shares and the valuation date with respect to the repurchase of those shares is less than one year. Any Early Repurchase Fees will apply equally to all classes of shares of a Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. To the extent a Fund determines to waive, impose scheduled variations of, or eliminate any Early Repurchase Fee, it will do so consistently with the requirements of rule 22d–1 under the Act as if the Early Repurchase Fee were a CDSL (defined below) and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, any such Early Repurchase Fee will apply uniformly to all shareholders of the Fund regardless of class. Applicants state that the Initial Fund does not intend to impose an Early Repurchase Fee.

9. Applicants state that the Initial Fund has adopted a fundamental policy to repurchase a specified percentage of its shares at net asset value on a quarterly basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act. Any Future Funds will likewise adopt fundamental investment policies and make periodic repurchase offers to its shareholders in compliance with rule 23c–3 or will provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

10. Applicants represent that any asset-based service and/or distribution fees for each class of shares of the Funds will comply with the provisions of the FINRA Rule 2341(d) (''FINRA Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

11. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

12. Each Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of that Fund attributable to each class, except that the net asset value and expenses of each class will reflect the expenses associated with the distribution plan of that class (if any), service fees attributable to that class (if any), including transfer agency fees, and any other incremental expenses of that class. Expenses of a Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

13. Applicants state that each Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each Fund will apply the EWC (and any waivers or scheduled variations, or elimination of the EWC) uniformly to all shareholders

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933, as amended.

[4] Any reference to the FINRA Sales Charge Rule includes any successor or replacement to the FINRA Sales Charge Rule.

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). *See* also Rules 12d1–1, *et seq.* of the Act.

in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

14. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with such Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits an ''interval fund'' to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs.

Asset-Based Distribution and/or Service Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26797 Filed 12–11–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84738; File No. SR–CboeBZX–2018–079]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Granting Approval to a Proposed Rule Change, as Modified by Amendment No. 1, To Establish How the BZX Official Closing Price Would Be Determined for BZX-Listed Securities

December 6, 2018.

I. Introduction

On October 18, 2018, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend how the BZX Official Closing price would be determined for BZX-listed securities that are not corporate securities if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot.[3] The proposed rule change was published for comment in the **Federal Register** on November 5, 2018.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

The Exchange proposes to amend BZX Rule 11.23(c)(2)(B) to change how it would determine the BZX Official Closing Price [5] for an Exchange-listed security that is not a corporate security (''Derivative Securities Product'') if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot. Current Rule 11.23(c)(2)(B) provides that in the event that there is no Closing Auction for a BZX-listed security, the BZX Official Closing Price will be the price of the Final Last Sale Eligible Trade.[6] The Exchange proposes to amend this provision to provide that for Derivative Securities Products only, in the event there is no Closing Auction, or if less than a round lost was executed in the Closing Auction, the BZX Official Closing Price will depend upon when the Final Last Sale Eligible Trade in that security occurred.

Specifically, if the Final Last Sale Eligible Trade occurred within the final five minutes before the end of Regular Trading Hours, the Final Last Sale Eligible Trade will be the BZX Official Closing Price.[7] However, if such trade occurred prior to the last five minutes before the end of Regular Trading Hours, the time-weighted average price of the NBBO midpoint measured over the last five minutes before the end of Regular Trading Hours will be the BZX Official Closing Price.[8]

If the BZX Official Closing Price cannot be determined under proposed BZX Rule 11.23(c)(2)(B)(i) or (ii), the Final Last Sale Eligible Trade will be the BZX Official Closing Price.[9] If there is no qualifying trade for the current day, the BZX Official Closing Price from the previous trading day will be used.[10]

The Exchange states that it will implement the proposed rule change as soon as is practicable after the Commission's approval and will announce the implementation date via Trade Desk Notice.[11]

III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of Section 6 of the Act [12] and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5) the Act,[14] which requires, among other things, that the rules of a national securities exchange be designed to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On October 29, 2018, the Exchange filed Amendment No. 1 to the proposed rule change to specify the date upon which the Exchange's President (or designee) approved the proposed rule change, pursuant to delegated authority.

[4] *See* Securities Exchange Act Release No. 84507 (October 30, 2018), 83 FR 55435 (''Notice'').

[5] *See* BZX Rule 11.23(a)(3) (defining the term ''BZX Official Closing Price'' as the price disseminated to the consolidated tape as the market center closing trade).

[6] As defined in BZX Rule 11.23(a)(9), the term ''Final Last Sale Eligible Trade'' means the last trade occurring during Regular Trading Hours on the Exchange if the trade was executed within the last one second prior to either the Closing Auction or, for Halt Auctions, trading in the security being halted. Where the trade was not executed within the last one second, the last trade reported to the consolidated tape received by BZX Exchange during Regular Trading Hours and, where applicable, prior to trading in the security being halted will be used. If there is no qualifying trade for the current day, the BZX Official Closing Price from the previous trading day will be used.

[7] *See* proposed BZX Rule 11.23(c)(2)(B)(ii)(a).

[8] *See* proposed BZX Rule 11.23(c)(2)(B)(ii)(b).

[9] *See* proposed BZX Rule 11.23(c)(2)(B)(iii).

[10] *See* BZX Rule 11.23(a)(9).

[11] *See* Notice, *supra* note 4, at 55436.

[12] 15 U.S.C. 78f(b).

[13] In approving this proposed rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating 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 not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,[15] which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission notes that the primary listing market's official closing price for a security is relied upon by market participants for a variety of reasons, including, but not limited to, calculation of index values, calculation of the net asset value of mutual funds and exchange-traded products, the price of derivatives that are based on the security, and certain types of trading benchmarks such as volume weighted average price strategies. For Derivatives Securities Products, in circumstances where there is no Closing Auction, or the Closing Auction trade consists of less than one round lot, the Exchange proposes to utilize more recent firm quotations instead of less recent trades, as such trades may provide less information about the current value of a security. The Exchange asserts that by doing so, the BZX Official Closing Price for such a Derivative Securities Product would be more reflective of the true and current value of such security on that trading day than otherwise would under the Exchange's current rule, particularly for a Derivative Securities Product that is thinly traded.[16] The Commission therefore believes that the Exchange's proposal is reasonably designed to achieve the Act's objectives to protect investors and the public interest. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[17] that the proposed rule change (SR–CboeBZX–2018–079), as modified by Amendment No. 1, be, and hereby is, approved.

[15] 15 U.S.C. 78f(b)(8).

[16] *See* Notice, *supra* note 4, at 55437.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26834 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84731; File No. SR–CboeBZX–2018–040]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of SolidX Bitcoin Shares Issued by the VanEck SolidX Bitcoin Trust

December 6, 2018.

On June 20, 2018, Cboe BZX Exchange, Inc. (''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of SolidX Bitcoin Shares issued by the VanEck SolidX Bitcoin Trust under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on July 2, 2018.[3]

On August 7, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On September 20, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] As of December 6, 2018, the Commission has received more than 1,600 comments on the proposed rule change.[8]

Section 19(b)(2) of the Act[9] provides that after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on July 2, 2018. December 29, 2018, is 180 days from that date, and February 27, 2019 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] designates February 27, 2019, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–CboeBZX–2018–040).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26828 Filed 12–11–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84745; File No. SR–GEMX–2018–40]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Supplementary Material .02 to Rule 715

December 7, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83520 (June 26, 2018), 83 FR 31014 (July 2, 2018).

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 83792 (Aug. 7, 2018), 83 FR 40112 (Aug. 13, 2018).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 84231 (Sept. 20, 2018), 83 FR 48665 (Sept. 26, 2018). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' *See id.* at 48667 (citing 15 U.S.C. 78f(b)(5)).

[8] All comments on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-cboebzx-2018-040/cboebzx2018040.htm.*

[9] 15 U.S.C. 78s(b)(2).

[10] *Id.*

[11] 17 CFR 200.30–3(a)(57).

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 29, 2018, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Supplementary Material .02 to Rule 715 regarding Cancel and Replace Orders.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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 Supplementary Material .02 to Rule 715 regarding Cancel and Replace Orders to: (i) Correct an inconsistency between the Exchange's rule text and the operation of the System [3] by removing the reference to Rule 710, (ii) update rule cross-references, and (iii) make other non-substantive, technical changes.

Today, a member has the option of either sending in a cancel order and then separately sending in a new order which serves as a replacement of the original order (two separate messages), or sending a single cancel and replace order in one message (*i.e.,* a Cancel and Replace Order). Specifically, Supplementary Material .02 to Rule 715 defines a Cancel and Replace Order as a single message for the immediate cancellation of a previously received order and the replacement of that order with a new order.[4] The replacement portion of the Cancel and Replace Order is treated as a new order and therefore goes through price or other reasonability checks as a result of being viewed as such.[5] If the replacement portion of a Cancel and Replace Order does not satisfy the System's price or other reasonability checks, the existing order will be cancelled and not replaced.[6] The Exchange notes, however, that when it initially codified Cancel and Replace Orders in its Rulebook as part of SR–ISEGemini–2017–07, it inadvertently included Rule 710 within the list of price reasonability checks. In SR–ISEGemini–2017–07, the Exchange explained that the System conducts price or other reasonability checks for Cancel and Replace Orders to validate such orders against the current market conditions prior to proceeding with the request to modify the order.[7] Rule 710, which relates to the minimum price variations applicable to options series traded on the Exchange, does not involve the System considering the current market at the time of the Cancel and Replace Order, and an incoming Cancel and Replace Order that fails the minimum price variation checks in Rule 710 would not result in the existing order being cancelled and not replaced.[8] The Exchange therefore proposes to remove the reference to Rule 710 from the list of price or other reasonability checks to conform its rule text to the System.

The Exchange also proposes to update the various rule references related to the price reasonability checks within this provision to refer to the current rules.[9] Finally, the Exchange proposes other non-substantive, technical changes within Supplementary Material .02 to Rule 715 to capitalize ''Cancel and Replace *O*rder'' for consistency, and to capitalize ''System,'' which is a defined term.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] 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 corrects an inadvertent error in Supplementary Material .02 to Rule 715, which currently includes Rule 710 within the list of price or other reasonability checks. As discussed above, including Rule 710 is inconsistent with the operation of the Exchange's System because an incoming Cancel and Replace Order which fails the minimum price variation checks in Rule 710 does not result in the existing order getting cancelled and not replaced. This rule change would amend the rule text to reflect GEMX's current practice, and should avoid potential confusion about how the System processes Cancel and Replace Orders today.[12] Furthermore, the Exchange's proposal to update the rule references and make other non-substantive technical changes, as further described above, will bring greater transparency to its Rulebook thereby protecting investors and the public interest by reducing potential for investor confusion.

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. All of the proposed changes are intended to bring greater transparency to the Exchange's Rulebook, and therefore does not unduly burden competition.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Rule 100(a)(64).

[4] If the previously placed order is already filled partially or in its entirety, the replacement order is automatically cancelled or reduced by the number of contracts that were executed. *See* Supplementary Material .02 to Rule 715.

[5] Supplementary Material .02 to Rule 715 further provides how the replacement portion may retain the priority of the original order, provided certain specified conditions are met. The manner in which the Exchange treats priority with respect to Cancel and Replace Orders is not changing under this proposal.

[6] *See* Securities Exchange Act Release No. 80106 (February 24, 2017), 82 FR 12374 (March 2, 2017) (SR–ISEGemini–2017–07) (memorializing Cancel and Replace Orders in Supplementary Material .02 to Rule 715). The Exchange subsequently changed its name from ISE Gemini to Nasdaq GEMX.

[7] *Id.*

[8] In this instance, the System would simply reject the cancel and replace message as an invalid instruction. The Exchange notes that the previous T7 system likewise treated Cancel and Replace Orders in this manner.

[9] In particular, Rules 711(c) and 714(b)(2) are now Rules 714(b)(1)(B) and 714(b)(1)(A), respectively, pursuant to SR–GEMX–2018–32. *See* Securities Exchange Act Release No. 84238 (September 20, 2018), 83 FR 48678 (September 26, 2018).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* note 8 above.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2018–40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–GEMX–2018–40. 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–GEMX–2018–40 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26907 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. At the Exchange's request, the Commission has waived this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84753; File No. SR–BX–2018–061]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Defined Terms ''In-the-Money'' and ''Out-of-the-Money'' in BX Options Rules at Chapter I, Section 1

December 7, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 4, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BX Options Rules at Chapter I, Section 1, specifically the defined terms ''in the money'' and ''out-of-the-money'' at BX Options Rules at Chapter I, Sections 1(a)(68) and (69), respectively.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BX rules define an ''in-the-money'' option series at Chapter I, Section 1(a)(68). Currently the term ''in-the-money'' means, for call options, all strike prices below the offer in the underlying security on the primary listing market; for put options, all strike prices above the bid in the underlying security on the primary listing market. BX rules define an ''out-of-the-money'' option series at Chapter I, Section 1(a)(69). Currently, the term ''out-of-the-money'' shall mean the following: For call options, all strike prices above the offer in the underlying security on the primary listing market; for put options, all strike prices below the bid in the underlying security on the primary

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

listing market. The Exchange proposes to amend these defined terms as specified below.

In-the-Money

At this time, the Exchange proposes to amend the defined term ''in-the-money'' to include an ''at-the-money'' option. The term ''in-the-money'' would be defined with this amendment to mean, for call options, all strike prices at or below the offer in the underlying security on the primary listing market; for put options, all strike prices at or above the bid in the underlying security on the primary listing market. The Exchange believes that amending the term ''in-the-money'' to include options that are ''at-the-money'' will bring greater transparency to the manner in which the Exchange handles ''at-the-money'' options.[3]

In-the-Money and Out-of-the-Money

The Exchange proposes to limit the defined terms ''in-the-money'' and ''out-of-the-money'' option series for purposes of Market Maker quoting obligations in Chapter VII, Section 6. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules. This limitation represents current practice. The Exchange also notes that it is conforming this term across its Nasdaq affiliated markets.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] 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 amend the defined term ''in-the-money'' to include options that are ''at-the-money'' will bring greater transparency to the current manner in which the Exchange handles ''at-the-money'' options.

The Exchange's proposal to note that the defined terms ''in-the-money'' and ''out-of-the-money'' would apply for purposes of Market Maker quoting obligations in Chapter VII, Section 6 would avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules. The limitation of the defined terms for purposes of Market Maker quoting obligations in Chapter VII, Section 6 will bring transparency to the current use of the defined terms.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to amend the defined term ''in-the-money'' to include options that are ''at-the-money'' and add limitations to the use of the defined terms ''in-the-money'' and ''out-of-the-money'' for purposes of Market Maker quoting obligations in Chapter VII, Section 6 do not unduly burden competition, rather these amendments add greater transparency to the Rulebook and makes clear the applicability of the definitions to avoid confusion with respect to the remainder of the options rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

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–BX–2018–061 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–BX–2018–061. 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–BX–2018–061 and should

[3] The Exchange notes that the inclusion of the term ''at-the-money'' within the defined term ''in-the-money'' represents the Exchange's current practice.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26915 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84727; File No. SR–Phlx–2018–77]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Bid/Ask Differentials

December 6, 2018.

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 28, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 1017, entitled ''Openings in Options,'' Phlx Rule 1014, entitled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders,'' and Rule 1000, entitled ''Applicability, Definitions an References.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes several amendments in this rule change. First, the Exchange proposes to amend Phlx Rule 1017, entitled ''Openings in Options'' and Phlx Rule 1014, entitled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders'' to correct inconsistencies between the Exchange's rule text and the operation of the System. Second, the Exchange proposes to add definitions to Phlx Rule 1000 to define ''in-the-money'' and ''out-of-the-money'' option series. Third, the Exchange proposes to amend Rule 1014 to correct an error regarding rounding. Each amendment will be described in more detail below.

Rule 1017

Today, Phlx Rule 1017(a)(ix) defines a Valid Width Quotes as a two-sided electronic quotation submitted by a Phlx Electronic Market Maker (which includes a Specialist[3] and a Registered Options Trader[4] or ''ROT'') that consists of a bid/ask differential that is compliant with Rule 1014(c)(i)(A)(1)(a).[5] Specifically, for the Opening Process, Phlx Rule 1014(c)(i)(A)(1)(a) states that, for in-the-money series, the bid/ask differentials may be as wide as the spread between the national best bid and offer in the underlying security, or its decimal equivalent rounded up to the nearest minimum increment. In practice, however, the Exchange's System permits a Valid Width Quote in the Opening Process to be as wide as the quotation for the underlying security on the primary (listing) market.[6]

Proposal

The Exchange proposes to codify its current practice and correctly reflect in its Rules that the Valid Width Quote in the Opening Process apply a primary market analysis, not a national best bid or offer (''NBBO'') analysis.[7] Specifically, this proposal would conform the current rule text to the current System by amending the definition of a Valid Width Quote in Rule 1017, ''Opening in Options,'' so that, in the case of in-the-money option series[8] where the market for the underlying security is wider than the differentials set forth above, the bid/ask differential set forth in Phlx Rule 1017(a)(ix) may be as wide as the quotation for the underlying security on the primary[9] (listing) market, or its decimal equivalent rounded down to the nearest minimum increment.

The Exchange believes that utilizing the primary market in the Opening Process is reasonable given the close connection between the primary market and the Opening Process. For example, Phlx Rule 1017(d)(ii) provides, ''For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.''

Today, in order to open, the Exchange requires either: (i) The Specialist's Valid

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Specialist is an Exchange member who is registered as an options Specialist. *See* Phlx Rule 1020(a).

[4] Rule 1014(b) defines a ROT as ''a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account.'' For purposes of Rule 1014, the term ''ROT'' shall include a Streaming Quote Trader and a Remote Streaming Quote Trader, as defined in Rule 1014.

[5] Phlx Rule 1014(c)(i)(A)(1)(a) provides, ''[o]ptions on equities and index options bidding and/or offering so as to create differences of no more than $.25 between the bid and the offer for each option contract for which the prevailing bid is less than $2; no more than $.40 where the prevailing bid is $2 or more but less than $5; no more than $.50 where the prevailing bid is $5 or more but less than $10; no more than $.80 where the prevailing bid is $10 or more but less than $20; and no more than $1 where the prevailing bid is $20 or more, provided that, in the case of equity options, the bid/ask differentials stated above shall not apply to in-the-money series where the market for the underlying security is wider than the differentials set forth above. For such series, the bid/ask differentials may be as wide as the spread between the national best bid and offer in the underlying security, or its decimal equivalent rounded up to the nearest minimum increment. The Exchange may establish differences other than the above for one or more series or classes of options.''

[6] The primary market has always been utilized on Phlx since the migration to Phlx XLII.

[7] The Exchange notes that today Phlx utilizes the primary market in calculating the bid/ask differential during the Opening Process. This rule change would amend the rule to reflect Phlx's current practice.

[8] An at-the-money option series would also qualify. An out-of-the-money series would not qualify.

[9] The term ''primary market'' means, in the case of securities listed on The Nasdaq Stock Market, the market that is identified as the listing market pursuant to Section X(d) of the approved national market system plan governing the trading of Nasdaq-listed securities, and, in the case of securities listed on another national securities exchange, the market that is identified as the listing market pursuant to Section XI of the Consolidated Tape Association Plan. *See* Phlx Rule 1000(b)(31).

Width Quote; (ii) the Valid Width Quotes of at least two Phlx Electronic Market Makers other than the Specialist; or (iii) if neither the Specialist's Valid Width Quote nor the Valid Width Quotes of two Phlx Electronic Market Makers have been submitted within such timeframe, one Phlx Electronic Market Maker has submitted a Valid Width Quote. The Exchange notes that it requires Specialists to submit Valid Width Quotes during the Opening Process to guarantee liquidity, unlike other markets which may not require market makers to quote during the opening.[10] Further, amending the rule text to conform to its current practice will avoid confusion and continue to permit Phlx to remain one of the strongest openings in the industry.

Rule 1000

Phlx rules currently do not define an ''in-the-money'' or ''out-of-the-money'' option series. As part of this rule change, the Exchange proposes to define these above-referenced terms within Phlx Rule 1000(b) to bring greater transparency to its rules with respect to Phlx Electronic Market Maker quoting. The Exchange proposes to define the term ''in-the-money'' at Rule 1000(b)(51) as the following: For call options, all strike prices at or below the offer in the underlying security on the primary listing market; for put options, all strike prices at or above the bid in the underlying security on the primary listing market. The Exchange proposes to define the term ''out-of-the-money'' option at Rule 1000(b)(52), which is currently reserved, to mean the following: For call options, all strike prices above the offer in the underlying security on the primary listing market; for put options, all strike prices below the bid in the underlying security on the primary listing market.[11] Each of these definitions would apply for purposes of Phlx Electronic Market Maker quoting obligations in Rules 1014 and 1017. The Exchange notes that it specifically proposes to reference the rules related to Phlx Electronic Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules.

Rule 1014

The Exchange proposes to codify current rounding practice by amending Rule 1014(c)(i)(A)(1)(a). Today, Rule 1014(c)(i)(A)(1)(a) provides that rounding is up when referring to decimal equivalent. Today, the decimal equivalent is rounded down not up. The Exchange proposes to conform its rule text to the current practice. The Exchange believes that the manner in which the Exchange rounds is immaterial, however the Exchange believes that it is important to disclose its method of rounding and uniformly apply such rounding. The Exchange proposes this amendment to make clear the manner in which it rounds the decimal equivalent. Today the Exchange uniformly applies this rounding to all market maker participants and will continue to apply it in a uniform manner.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] 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 notes that today Phlx utilizes the primary market in calculating the bid/ask differential during the Opening Process, although the current rule does not reflect this practice. This rule change would amend the rule to reflect Phlx's current practice.

Rule 1017

The Exchange's proposal to amend the Opening Process to conform to current practice is consistent with the Act because while the Exchange believes that relying on the primary market or the NBBO accurately reflect the current trading environment and take into consideration market conditions, the Exchange's current Opening Process is designed to utilize the primary standard during the Opening Process.[14]

Rule 1000

The Exchange's proposal to define the terms ''in-the-money'' and ''out-of-the-money'' for purposes of Phlx Electronic Market Maker quoting obligations in Rules 1014 and 1017 is consistent with the Act and protects investors and the public interest by bringing greater transparency to the Rulebook. Each of these defined terms would apply for purposes of Phlx Electronic Market Maker quoting obligations in Rules 1014 and 1017. The Exchange notes that it specifically proposes to reference the rules related to Phlx Electronic Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules.

Rule 1014

The Exchange's proposal to amend Rule 1014(c)(i)(A)(1)(a) to codify the Exchange's current practice of rounding down when referring to decimal equivalent is consistent with the protection of investor and the public interest because the Exchange is adding transparency to its current rule by disclosing its method of rounding.

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.

Rule 1017

The Exchange's proposal to codify its current practice of utilizing the primary market in the Opening Process does not unduly burden competition because the current practice maintains a close connection between the primary market and the Opening Process. The primary market reflects the current trading environment. The Exchange notes that the proposal does not create an undue burden on intra-market competition because Phlx Electronic Market Makers are the only market participants subject to quoting requirements and these participants have valuable information with respect to the underlying instrument under the current process to make informed decisions and take calculated risks in the marketplace when providing liquidity. Phlx Electronic Market Makers remain responsible for maintaining fair and orderly markets.

[10] The Nasdaq Options Market (''NOM'') permits a bid/ask differential for options on equities and on index options to be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid, including before and during the opening. *See* NOM Rules at Chapter VII, Section 6(d)(ii).

[11] The Exchange notes that it does not utilize a last sale calculation. The Exchange believes that the quotation for the underlying security on the primary market provides an accurate reflection of the market. A last sale calculation may not be an accurate reflection of the market because the last sale may not be representative of the primary market in all cases, particularly if a halt were to occur.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] Phlx Rule 1017(d)(ii) provides, ''For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.''

Rule 1000

The Exchange's proposal to define the terms ''in-the-money'' or ''out-of-the-money'' for purposes of Phlx Electronic Market Maker quoting obligations in Rules 1014 and 1017 does not unduly burden competition, rather it adds greater transparency to the Rulebook and makes clear the applicability of the definitions to avoid confusion with respect to the remainder of the options rules.

Rule 1014

The Exchange's proposal to codify its current practice of rounding down when referring to decimal equivalent within Rule 1014(c)(i)(A)(1)(a) does not impose an unduly burden competition because the Exchange continues to uniformly apply its rounding methodology with respect to its market making participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [15] and subparagraph (f)(6) of Rule 19b–4 thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that immediately codifying its current practice within its rules to accurately reflect the operation of the Exchange's System will avoid confusion. 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 as operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2018–77 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2018–77. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–77 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26824 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 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 the 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.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84752; File No. SR–NASDAQ–2018–100]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Defined Terms "In-the-Money" and "Out-of-the-Money" in Chapter I, Section 1

December 7, 2018.

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 30, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC (''NOM'') Rules at Chapter I, Section 1, specifically the defined terms ''in-the-money'' and ''out-of-the-money'' at NOM Rules at Chapter I, Section 1(a)(67) and (68), respectively.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NOM rules define an ''in-the-money'' option series at Chapter I, Section 1(a)(67). Currently the term ''in-the-money'' means, for call options, all strike prices below the offer in the underlying security on the primary listing market; for put options, all strike prices above the bid in the underlying security on the primary listing market. NOM rules define an ''out-of-the-money'' option series at Chapter I, Section 1(a)(68). Currently, the term ''out-of-the-money'' shall mean the following: For call options, all strike prices above the offer in the underlying security on the primary listing market; for put options, all strike prices below the bid in the underlying security on the primary listing market. The Exchange proposes to amend these defined terms as specified below.

In-the-Money

At this time, the Exchange proposes to amend the defined term ''in-the-money'' to include an ''at-the-money'' option. The term ''in-the-money'' would be defined with this amendment to mean, for call options, all strike prices at or below the offer in the underlying security on the primary listing market; for put options, all strike prices at or above the bid in the underlying security on the primary listing market. The Exchange believes that amending the term ''in-the-money'' to include options that are ''at-the-money'' will bring greater transparency to the manner in which the Exchange handles ''at-the-money'' options.[3]

In-the-Money and Out-of-the-Money

The Exchange proposes to limit the defined terms ''in-the-money'' and ''out-of-the-money'' option series for purposes of Market Maker quoting obligations in Chapter VII, Section 6. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules. This limitation represents current practice. The Exchange also notes that it is conforming this term across its Nasdaq affiliated markets.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] 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 amend the defined term ''in-the-money'' to include options that are ''at-the-money'' will bring greater transparency to the current manner in which the Exchange handles ''at-the-money'' options.

The Exchange's proposal to note that the defined terms ''in-the-money'' and ''out-of-the-money'' would apply for purposes of Market Maker quoting obligations in Chapter VII, Section 6 would avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules. The limitation of the defined terms for purposes of Market Maker quoting obligations in Chapter VII, Section 6 will bring transparency to the current use of the defined terms.

[3] The Exchange notes that the inclusion of the term ''at-the-money'' within the defined term ''in-the-money'' represents the Exchange's current practice.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to amend the defined term ''in-the-money'' to include options that are ''at-the-money'' and add limitations to the use of the defined terms ''in-the-money'' and ''out-of-the-money'' for purposes of Market Maker quoting obligations in Chapter VII, Section 6 do not unduly burden competition, rather these amendments add greater transparency to the Rulebook and makes clear the applicability of the definitions to avoid confusion with respect to the remainder of the options rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

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.

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–2018–100 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–2018–100. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2018–100 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26914 Filed 12–11–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84733; File No. SR–CHX–2018–06]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend CHX Article 22, Rule 6(a)

December 6, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 27, 2018, the Chicago Stock Exchange, Inc. (''CHX'' 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 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 CHX Article 22, Rule 6(a) to remove the requirement that the Exchange file with the Securities and Exchange Commission (the ''Commission'') a Form 19b–4(e) for each ''new derivative securities product'' that will commence trading on the Exchange pursuant to unlisted trading privileges. 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 purpose of the proposed rule change is to amend CHX Article 22, Rule 6(a) to remove the requirement that the Exchange file with the Commission a Form 19b–4(e) for each ''new derivative securities product'' that will commence trading on the Exchange pursuant to unlisted trading privileges. The Exchange notes that a substantially identical proposed rule change by NYSE National, Inc. (''NYSE National'') was recently approved by the Commission.[4]

CHX Article 22, Rule 6(a) sets forth the requirement for the Exchange to file with the Commission a Form 19b–4(e) with respect to each ''new derivative securities product'' that is traded pursuant to unlisted trading privileges. However, the Exchange believes that it should not be necessary to file a Form 19b–4(e) with the Commission if it begins trading a ''new derivative securities product'' pursuant to unlisted trading privileges, because Rule 19b–4(e)(1) under the Act refers to the ''listing and trading'' of a ''new derivative securities product.'' The Exchange believes that the requirements of that rule refer to when an exchange lists and trades a ''new derivative securities product'', and not when an exchange seeks only to trade such product pursuant to unlisted trading privileges pursuant to Rule 12f–2 under the Act.[5] Therefore, the Exchange proposes to delete the requirement in Article 22, Rule 6(a) for the Exchange to file a Form 19b–4(e) with the Commission with respect to each ''new derivative securities product'' it begins trading pursuant to unlisted trading privileges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[6] of the Act in general, and furthers the

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (Order Approving File No. SR–NYSENat–2018–02).

[5] 17 CFR 240.12f-2.

[6] 15 U.S.C. 78f(b).

objectives of Section 6(b)(5) of the Act [7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, eliminating the requirement to file a Form 19b–4(e) for each ''new derivative securities product'' the Exchange begins trading on an unlisted trading privileges basis removes an unnecessary regulatory requirement thereby providing for a more efficient process for adding a ''new derivative securities product'' to trading on the Exchange on an unlisted trading privileges basis.

As noted above, the Commission recently approved a substantially identical proposed rule change by NYSE National.[8] In particular, the Commission noted in the approval order that it ''believes that the filing of a Form 19b–4(e) is not required when an Exchange is trading a new derivative securities product on a UTP basis only'' [9] and also found that the NYSE National's proposed rule change is ''consistent with the requirements of Section 6(b)(5) of the Act.'' [10] The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq PHLX LLC (''PHLX''), Nasdaq BX, Inc. (''BX'') and Investors Exchange LLC (''IEX'') also recently amended their rules to remove the requirement to file with the Commission a Form 19b–4(e) for each ''new derivative securities product'' traded on each of those exchanges pursuant to unlisted trading privileges.[11]

For these reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, removing the requirement to file a Form 19b–4(e) will serve to enhance competition by providing for the efficient addition of new derivative securities products for trading pursuant to unlisted trading privileges on the Exchange. To the extent that a competitor marketplace believes that the proposed rule change places it at a competitive disadvantage, it may file with the Commission a proposed rule change to adopt the same or similar rule.

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 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 [12] and Rule 19b–4(f)(6) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that CHX's proposal does not present any new or novel issues. Thus, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[14]

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–CHX–2018–06 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–CHX–2018–06. 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–CHX–2018–06 and should be submitted on or before January 2, 2019.

[7] 15 U.S.C. 78f(b)(5).

[8] *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (Order Approving File No. SR–NYSENat–2018–02).

[9] *See supra* note 8 at page 23975 at footnote 149.

[10] *See supra* note 8 at page 23975–6.

[11] *See* Securities Exchange Act Release Nos. 84488 (October 25, 2018), 83 FR 54801 (October 31, 2018) (SR–NASDAQ–2018–082); 84542 (November 6, 2018), 83 FR 56385 (November 13, 2018) (SR–Phlx–2018–67); 84546 (November 7, 2018), 83 FR 56888 (November 14, 2018) (SR–BX–2018–051); and 83609 (July 9, 2018), 83 FR 32704 (July 13, 2018) (SR–IEX–2018–14).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires 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.

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26830 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84750; File No. SR-CboeBZX–2018–078]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the WisdomTree Long-Term Treasury PutWrite Strategy Fund, WisdomTree Corporate Bond PutWrite Strategy Fund, WisdomTree International PutWrite Strategy Fund, and WisdomTree Emerging Markets PutWrite Strategy Fund Under Rule 14.11(i), Managed Fund Shares

December 7, 2018.

On October 9, 2018, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares the WisdomTree Long-Term Treasury PutWrite Strategy Fund, WisdomTree Corporate Bond PutWrite Strategy Fund, WisdomTree International PutWrite Strategy Fund, and WisdomTree Emerging Markets PutWrite Strategy Fund, each a series of the WisdomTree Trust, pursuant to BZX Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. The proposed rule change was published for comment in the **Federal Register** on October 25, 2018.[3] On December 3, 2018, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is December 9, 2018. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposal so that it has sufficient time to consider the proposed rule change in light of the recently filed Amendment No. 1. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates January 23, 2019, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-CboeBZX–2018–078), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26912 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84730; File No. SR–GEMX–2018–39]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Bid/Ask Differentials

December 6, 2018.

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 28, 2018, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend GEMX Rule 701, entitled ''Opening,'' GEMX Rule 803, entitled ''Obligations of Market Makers'' and GEMX Rule 100, entitled ''Definitions.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

GEMX proposes several amendments in this rule change. First, the Exchange proposes to amend GEMX Rule 701, entitled ''Opening'' and GEMX Rule 803, entitled ''Obligations of Market Makers'' to correct inconsistencies between the Exchange's rule text and the operation of the System. Second, the Exchange proposes to add definitions to GEMX Rule 100 to define ''in-the-money'' and ''out-of-the-money'' option series. Third, the Exchange proposes to correct various cross references to Rule 100. Each amendment will be described in more detail below.

Rules 701 and 803

Today, for the Opening Process, GEMX Rule 701(a)(8) defines a ''Valid Width Quote'' as a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4).[3]

[15] 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. 84456 (October 19, 2018), 83 FR 53928.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] GEMX Rule 803(b)(4) provides:

''To price options contracts fairly by, among other things, bidding and offering so as to create differences of no more than $5 between the bid and offer following the opening rotation in an equity or index options contract. Prior to the opening rotation, spread differentials shall be no more than

Continued

Specifically, for the Opening Process, GEMX Rule 803(b)(4) states that, for in-the money option series, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. In practice, however, the Exchange's System permits a Valid Width Quote in the Opening Process to be as wide as the quotation for the underlying security on the primary (listing) market.[4]

Proposal

The Exchange proposes to codify its current practice and correctly reflect in its Rules that the Valid Width Quote in the Opening Process apply a primary market analysis, not a national best bid or offer (''NBBO'') analysis.[5] Specifically, this proposal would conform the current rule text to the current System by amending the definition of a Valid Width Quote in Rule 701, ''Opening,'' so that, in the case of in-the-money option series [6] where the market for the underlying security is wider than the differentials set forth within GEMX Rule 803(b)(4), the bid/ask differential may be as wide as the quotation for the underlying security on the primary [7] (listing) market, or its decimal equivalent rounded down to the nearest minimum increment.

The Exchange believes that utilizing the primary market in the Opening Process is reasonable given the close connection between the primary market and the Opening Process. For example, GEMX Rule 701(c)(2) provides, ''For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.''

Today, in order to open, the Exchange requires either: (i) The Primary Market Maker's (''PMM'') Valid Width Quote; (ii) the Valid Width Quotes of at least two Competitive Market Makers (''CMM''); or (iii) if neither the PMM's Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote. The Exchange notes that it requires Market Makers to submit Valid Width Quotes during the Opening Process to guarantee liquidity, unlike other markets which may not require market makers to quote during the opening.[8] Further, amending the rule text to conform to its current practice will avoid confusion and continue to permit GEMX to remain one of the strongest openings in the industry.

Discretion

The Exchange proposes to codify its current practice and amend GEMX Rule 803(b)(4) to adopt rule text which permits the Exchange intra-day discretion for bid/ask differentials similar to the discretion currently permitted in the Opening Process. The Exchange proposes to add a sentence to the end of the paragraph in GEMX Rule 803(b)(4) indicating the Exchange may establish differences other than the above for one or more series or classes of options. The Exchange notes that it utilizes this discretion today to grant relief for individual options classes as well as relief for all option classes based upon specific criteria. Today, Market Makers may request quote relief. When determining whether to grant quote relief the Exchange considers, among other factors, the following: (i) Pending corporate actions with undisclosed or uncertain terms; (ii) company or industry news with anticipated significant market impact; (iii) government news of a sensational nature. The Exchange believes that it is necessary to grant quote relief in certain circumstances where a Market Maker may not have enough information to maintain fair and orderly markets. The Exchange notes that other markets have similar discretion for intra-day quotes today.[9]

Rule 100

GEMX rules currently do not define an ''in-the-money'' or ''out-of-the-money'' option series. As part of this rule change, the Exchange proposes to define these above-referenced terms within GEMX Rule 100 to bring greater transparency to its rules with respect to Market Maker quoting. The Exchange proposes to define the term ''in-the-money'' option at Rule 100(a)(28), which is currently reserved, as the following: For call options, all strike prices at or below the offer in the underlying security on the primary listing market; for put options, all strike prices at or above the bid in the underlying security on the primary listing market. The Exchange proposes to define an ''out-of-the-money'' option at Rule 100(a)(41), which is currently reserved, to mean the following: for call options, all strike prices above the offer in the underlying security on the primary listing market; for put options, all strike prices below the bid in the underlying security on the primary listing market.[10] Each of these definitions would apply for purposes of Market Maker quoting obligations in Rules 701 and 803. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules.

The Exchange has added these definitions into the existing rule in alphabetical order. The Exchange proposes to renumber the rule to account for the addition of these two new definitions and proposes to amend cross-references to Rule 100 within the Rulebook to reflect the proposed new numbering within Rule 100.

$.25 between the bid and offer for each options contract for which the bid is less than $2, no more than $.40 where the bid is at least $2 but does not exceed $5, no more than $.50 where the bid is more than $5 but does not exceed $10, no more than $.80 where the bid is more than $10 but does not exceed $20, and no more than $1 where the bid is $20 or greater, provided that the Exchange may establish differences other than the above for one or more options series.

(i) The bid/offer differentials stated in subparagraph (b)(4) of this Rule shall not apply to in-the-money options series where the underlying securities market is wider than the differentials set forth above. For these series, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security.''

[4] In connection with the GEMX migration, the primary market was utilized beginning on February 27, 2017 as each symbol migrated to the INET platform.

[5] The Exchange notes that today GEMX utilizes the primary market in calculating the bid/ask differential during the Opening Process. This rule change would amend the rule to reflect GEMX's current practice.

[6] An at-the-money option series would also qualify. An out-of-the-money series would not qualify.

[7] The term ''primary market'' means the principal market in which an underlying security is traded. *See* GEMX Rule 100(a)(49).

[8] The Nasdaq Options Market (''NOM'') does not require NOM Market Makers to quote during the opening, however if a NOM Market Maker decided to quote during the opening, the Market Maker would be permitted to submit a bid/ask differential with a difference not to exceed $5 between the bid and offer regardless of the price of the bid. However, respecting in-the-money series where the market for the underlying security is wider than $5, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. *See* NOM Rules at Chapter VII, Section 6(d)(ii).

[9] *See* Nasdaq Phlx LLC Rule 1014(c)(i)(A)(1)(a), Miami International Securities Exchange LLC Rule 604b)(4), Cboe Exchange, Inc. Rule 8.7(d), NYSE American LLC Rule 925NY(b)(4), NYSE Arca, Inc. 6.37–O(b)(4).

[10] The Exchange notes that it does not utilize a last sale calculation. The Exchange believes that the quotation for the underlying security on the primary market provides an accurate reflection of the market. A last sale calculation may not be an accurate reflection of the market because the last sale may not be representative of the primary market in all cases, particularly if a halt were to occur.

Cross References

The Exchange proposes to amend cross-references to Rule 100 in Rules 713 and 720 to refer to the current definitions.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] 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 notes that today GEMX utilizes the primary market in calculating the bid/ask differential during the Opening Process, although the current rule does not reflect this practice. This rule change would amend the rule to reflect GEMX's current practice.

Rules 701 and 803

The Exchange's proposal to amend the Opening Process to conform to current practice is consistent with the Act because while the Exchange believes that relying on the primary market or the NBBO accurately reflect the current trading environment and take into consideration market conditions, the Exchange's current Opening Process is designed to utilize the primary standard during the Opening Process.[13]

Discretion

The Exchange's proposal to amend its rule to permit intra-day discretion to conform to current practice is consistent with the Act because such discretion is necessary to permit the Exchange the ability to attract liquidity from Market Makers while also maintaining a fair and orderly market. Market Makers accept a certain amount of risk when quoting on the Exchange. The Exchange imposes quoting and other obligations on Market Makers.[14] The Exchange notes that these risks which Market Makers accept each trading day are calculated risks. The Exchange notes that it considers certain factors, which are likely unforeseen, in determining whether to grant relief either in individual options classes or for all option classes based upon specific criteria. Specifically, the Exchange considers, among other factors, the following: (i) Pending corporate actions with undisclosed or uncertain terms; (ii) company or industry news with anticipated significant market impact; (iii) government news of a sensational nature. The Exchange believes that it is necessary to grant quote relief in certain circumstances where a Market Maker may not have enough information to maintain fair and orderly markets. The Exchange notes that other markets have similar discretion for intra-day quotes today.[15]

Rule 100

The Exchange's proposal to define the terms ''in-the-money'' and ''out-of-the-money'' for purposes of Market Maker quoting obligations in Rules 701 and 803 is consistent with the Act and protects investors and the public interest by bringing greater transparency to the Rulebook. Each of these defined terms would apply for purposes of Market Maker quoting obligations in Rules 701 and 803. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules.

Cross-References

The Exchange's proposal to amend cross-references to Rule 100 within Rules 713, 720 and Rule 1901 to refer to the current definitions is consistent with the Act because it will correct references to definitions.

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.

Rules 701 and 803

The Exchange's proposal to codify its current practice of utilizing the primary market in the Opening Process does not unduly burden competition because the current practice maintains a close connection between the primary market and the Opening Process. The primary market reflects the current trading environment. The Exchange notes that the proposal does not create an undue burden on intra-market competition because Market Makers are the only market participants subject to quoting requirements and these participants have valuable information with respect to the underlying instrument under the current process to make informed decisions and take calculated risks in the marketplace when providing liquidity. Market Makers remain responsible for maintaining fair and orderly markets.

Discretion

The Exchange's proposal to codify the Exchange's ability to permit intra-day discretion similar to the discretion currently permitted in the Opening Process does not impose an undue burden on competition because Market Makers are the only market participants subject to quoting requirements and the proposal specifically considers the need for Market Makers to have information to make informed decisions to make calculated risks in the marketplace so that they may provide liquidity while maintaining fair and orderly markets. The proposed amendments do not create undue burdens on inter-market competition because other options markets have the same intra-day requirements.[16]

Rule 100

The Exchange's proposal to define the terms ''in-the-money'' or ''out-of-the-money'' for purposes of Market Maker quoting obligations in Rules 701 and 803 does not unduly burden competition, rather it adds greater transparency to the Rulebook and makes clear the applicability of the definitions to avoid confusion with respect to the remainder of the options rules.

Cross-References

The Exchange's proposal to amend cross-references to Rule 100 in Rules 713, 720 and Rule 1901 to refer to the current definitions does not unduly burden competition because it will correct references to definitions.

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

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] GEMX Rule 701(c)(2) provides, ''For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.''

[14] *See* GEMX Rules 803 and 804.

[15] *See* note 9 above.

[16] *See* note 9 above.

burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [17] and subparagraph (f)(6) of Rule 19b–4 thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that immediately codifying its current practice within its rules to accurately reflect the operation of the Exchange's System will avoid confusion. 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 as operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 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 the 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.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2018–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–GEMX–2018–39. 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–GEMX–2018–39 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26827 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84748; File No. SR–CBOE–2018–055]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Withdrawal of a Proposed Rule Change Related To Amend Rule 6.21., Give Up of a Clearing Trading Permit Holder

December 7, 2018.

On August 7, 2018, the Chicago Board Options Exchange, Incorporated (''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules governing the give up of a Clearing Trading Permit Holder by a Trading Permit Holder on exchange transactions. The proposed rule change was published for comment in the **Federal Register** on August 23, 2018.[3] The Commission received four comments on the proposed rule change.[4]

On October 3, 2018, CBOE withdrew the proposed rule change (SR–CBOE–2018–055).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26910 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83872 (August 17, 2018), 83 FR 42751.

[4] *See* Letters to Brent J. Fields, Secretary, Commission, from: (1) Mark Dehnert, Managing Director, Goldman Sachs & Co. LLC, dated August 29, 2018; (2) Matthew R. Scott, President, Merrill Lynch Professional Clearing Corp., dated August 31, 2018; (3) Ellen Greene, Managing Director, Securties Industry Financial Markets Association, dated September 12, 2018; and (4) Scott Warren, Executive Vice President and Chief Administrative Officer, Options Clearing Corporation, dated September 13, 2018. The comment letters are available at *https://www.sec.gov/comments/sr-cboe-2018-55/srcboe201855.htm.*

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84746; File No. SR–MRX–2018–37]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .02 to Rule 715 Regarding Cancel and Replace Orders

December 7, 2018.

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 29, 2018, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Supplementary Material .02 to Rule 715 regarding Cancel and Replace Orders.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Supplementary Material .02 to Rule 715 regarding Cancel and Replace Orders to: (i) Correct an inconsistency between the Exchange's rule text and the operation of the System [3] by removing the reference to Rule 710, (ii) update rule cross-references, and (iii) make other non-substantive, technical changes.

Today, a member has the option of either sending in a cancel order and then separately sending in a new order which serves as a replacement of the original order (two separate messages), or sending a single cancel and replace order in one message (*i.e.,* a Cancel and Replace Order). Specifically, Supplementary Material .02 to Rule 715 defines a Cancel and Replace Order as a single message for the immediate cancellation of a previously received order and the replacement of that order with a new order.[4] The replacement portion of the Cancel and Replace Order is treated as a new order and therefore goes through price or other reasonability checks as a result of being viewed as such.[5] If the replacement portion of a Cancel and Replace Order does not satisfy the System's price or other reasonability checks, the existing order will be cancelled and not replaced.[6] The Exchange notes, however, that when it initially codified Cancel and Replace Orders in its Rulebook as part of SR–MRX–2017–02, it inadvertently included Rule 710 within the list of price reasonability checks. In SR–MRX–2017–02, the Exchange explained that the System conducts price or other reasonability checks for Cancel and Replace Orders to validate such orders against the current market conditions prior to proceeding with the request to modify the order.[7] Rule 710, which relates to the minimum price variations applicable to options series traded on the Exchange, does not involve the System considering the current market at the time of the Cancel and Replace Order, and an incoming Cancel and Replace Order that fails the minimum price variation checks in Rule 710 would not result in the existing order being cancelled and not replaced.[8] The Exchange therefore proposes to remove the reference to Rule 710 from the list of price or other reasonability checks to conform its rule text to the System. The Exchange also proposes to update the various rule references related to the price reasonability checks within this provision to refer to the current rules.[9] Finally, the Exchange proposes other non-substantive, technical changes within Supplementary Material .02 to Rule 715 to capitalize ''Cancel and Replace Order'' for consistency, and to capitalize ''System,'' which is a defined term.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] 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 corrects an inadvertent error in Supplementary Material .02 to Rule 715, which currently includes Rule 710 within the list of price or other reasonability checks. As discussed above, including Rule 710 is inconsistent with the operation of the Exchange's System because an incoming Cancel and Replace Order which fails the minimum price variation checks in Rule 710 does not result in the existing order getting cancelled and not replaced. This rule change would amend the rule text to reflect MRX's current practice, and should avoid potential confusion about how the System processes Cancel and Replace Orders today.[12] Furthermore, the Exchange's proposal to update the rule references and make other non-substantive technical changes, as further described above, will bring greater transparency to its Rulebook thereby protecting investors and the public interest by reducing potential for investor confusion.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Rule 100(a)(66).

[4] If the previously placed order is already filled partially or in its entirety, the replacement order is automatically cancelled or reduced by the number of contracts that were executed. *See* Supplementary Material .02 to Rule 715.

[5] Supplementary Material .02 to Rule 715 further provides how the replacement portion may retain the priority of the original order, provided certain specified conditions are met. The manner in which the Exchange treats priority with respect to Cancel and Replace Orders is not changing under this proposal.

[6] *See* Securities Exchange Act Release No. 81204 (July 25, 2017), 82 FR 35557 (July 31, 2017) (SR–MRX–2017–02) (memorializing Cancel and Replace Orders in Supplementary Material .02 to Rule 715 as part of the Exchange's system migration).

[7] *Id.*

[8] In this instance, the System would simply reject the cancel and replace message as an invalid instruction. The Exchange notes that the previous T7 system likewise treated Cancel and Replace Orders in this manner.

[9] In particular, Rules 711(c) and 714(b)(2) are now Rules 714(b)(1)(B) and 714(b)(1)(A), respectively, pursuant to SR–MRX–2018–30. *See* Securities Exchange Act Release No. 84239 (September 20, 2018), 83 FR 48670 (September 26, 2018).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* note 8 above.

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. All of the proposed changes are intended to bring greater transparency to the Exchange's Rulebook, and therefore does not unduly burden competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2018–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2018–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2018–37 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26908 Filed 12–11–18; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. At the Exchange's request, the Commission has waived this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84751; File No. SR–DTC–2018–010]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change To Amend the Settlement Guide Procedures To Provide Status Information for Institutional Transactions To a Matching Utility

December 7, 2018.

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 29, 2018, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. 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 proposed rule change would amend the Procedures, set forth in the DTC Settlement Guide,[3] [4] to allow DTC to provide status information (''Status Information'') for institutional transactions in Eligible Securities (''Institutional Transactions'')[5] to an entity providing a matching service[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of The Depository Trust Company (''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx* and the DTC Settlement Service Guide (''Settlement Guide''), *available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Settlement.pdf.*

[4] The Settlement Guide, which is proposed to be amended hereby, sets forth Procedures for the DTC's Settlement Service. *See* Settlement Guide, *supra* note 3. Procedures, in this context, pursuant to Section 1 of Rule 1, means ''the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time.'' Rule 1, Section 1, *supra* note 3. The Settlement Guide constitutes Procedures of DTC, as defined in the Rules. *See* Settlement Guide, *supra* note 3 at 1.

[5] An Institutional Transaction is a securities transaction between a broker-dealer and its institutional customer (*e.g.,* sell-side firms, buy-side institutions, and custodians).

[6] A ''matching service'' is an electronic service to match trade information, centrally, between a broker-dealer and its institutional customer. The matching service intermediary matches (*i.e.,* reconciles) trade information from the counterparties to an Institutional Transaction, to generate an affirmed transaction (''Affirmed Transaction'') which is then used to provide

(''Matching Utility''), as described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency 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

1. Purpose

The proposed rule change would amend the Settlement Guide to allow DTC to provide Status Information for Institutional Transactions to a Matching Utility, as described below.

Background

DTC may accept Institutional Transactions from a Matching Utility that is (i) a clearing agency registered pursuant to Section 17A of the Act[7] (ii) an entity that has obtained an exemption from such registration from the Commission, or (iii) a ''qualified vendor'' for trade confirmation/affirmation services as defined by the rules of a self-regulatory organization.[8]

In accordance with the Settlement Guide, for a Matching Utility to establish and maintain a connection with DTC, the Matching Utility must be able to balance with DTC in an automated way[9] and communicate transactions to and from DTC with information required though mandated fields in order to provide DTC with data necessary for it to be able to process a transaction.[10]

The submission of an Affirmed Transaction by the Matching Utility to DTC, on behalf of a Participant, constitutes the duly authorized instruction of the Participant to DTC to process the Affirmed Transaction in accordance with the Rules and Procedures.[11]

As more fully described below, a transaction submitted to DTC for processing may be subject to a processing exception (''Exception''), causing it to pend in the DTC system or not be processed because the transaction does not satisfy certain requirements and/or controls set forth in the Rules and Service Guide. A Matching Utility that has submitted an Institutional Transaction to DTC, or is otherwise involved with the matching of a transaction, does not receive Status Information regarding the transaction and is therefore unable to provide services to facilitate resolution of processing Exceptions occurring at DTC. Therefore, in order to resolve an Exception, the Participants to an Institutional Transaction must (i) access Status Information directly through the DTC Settlement User Interface and (ii), as necessary, supply the information to their customers that are counterparties to the transaction on their books, in order to facilitate the coordination of the resolution of the Exception among the counterparties. Pursuant to the proposed rule change, DTC would amend the Settlement Guide to allow DTC to provide Status Information for an Institutional Transaction to a Matching Utility. The proposal would allow the Matching Utility to further provide the Status Information to the counterparties to the Institutional Transaction to facilitate coordination of the resolution of Exceptions among counterparties.[12]

DTC Transaction Processing Exceptions

Exceptions may arise at various points during the processing of an Institutional Transaction submitted to DTC.

After an Affirmed Transaction, or other transaction that has been submitted directly by a Participant, has been accepted by DTC, the transaction must be approved by the Receiver through the Receiver Authorized Delivery function (''RAD''), before it will be staged for DTC settlement processing in accordance with the Rules and the Settlement Guide.[13] In this regard, a Receiving Participant may reject a transaction for any reason using RAD. If a transaction is not processed because of a rejection, then the transaction will drop from the DTC system, resulting in an Exception that could only be resolved through resubmission of the transaction and approval by the Receiving Participant.[14]

When processing a transaction for settlement, DTC checks risk controls, including the Net Debit Cap and Collateral Monitor, and inventory controls of the Participants to the transaction.[15] If a transaction satisfies DTC risk and inventory controls, as described below, the transaction will be processed by DTC and will become complete if the Receiving Participant satisfies its end-of-day funds settlement obligation.[16] If a transaction is not processed, *i.e.,* because DTC risk controls are not met, or if the Deliverer has insufficient inventory in the applicable Securities, this would result in an Exception such that the transaction will pend in DTC's system and recycle until the condition causing the pend is satisfied.[17]

An incomplete transaction recycles in DTC's system until the end of the day, and if it remains incomplete at the end of the day it will be dropped.[18]

Addressing Exceptions

An Exception creates inefficiencies for parties to the applicable Institutional Transaction. If an Institutional Transaction results in an Exception, information regarding the status of the Institutional Transaction may need to be exchanged by Participants and others involved in the trade life cycle, including buy-side firms, broker/

settlement instructions for the Affirmed Transactions to the central securities depository, such as DTC, at which the Affirmed Transaction settles. *See* Securities Exchange Act Release No. 39829 (April 6, 1998), 63 FR 17943 (April 13, 1998) at 17946 (providing interpretive guidance on types of entities that may provide a matching service).

[7] 15 U.S.C. 78q–1.

[8] *See* Settlement Guide, *supra* note 3 at 35.

[9] For each Matching Utility interfacing with DTC, DTC requires the Matching Utility to deliver a daily message on each business day shortly after noon from the Matching Utility with their accepted item counts of institutional delivery and ID Net transaction totals for Settlement Date minus one transactions. DTC's system will compare the totals from the Matching Utility to its accepted item counts. If the totals match, an ''acknowledged balance'' balance file will be sent to the Matching Utility. If the totals do not match, DTC will respond with the list of Settlement Date minus one control numbers received from the Matching Utility, along with their respective transaction types for the originating Matching Utility to compare. *Id.*

[10] The mandated fields for this purpose are the transaction control number (''Control Number''), DTC receiver and deliverer account numbers, CUSIP, message type, share quantity, market type, buy-sell indicator, broker ID, ID agent internal account number, broker internal account number, agent bank ID, settlement amount, origination entity, recipient of message, institution, and settlement date. *Id.* Institutional Transactions that are not Affirmed Transactions, but which include a Control Number, may be submitted directly by Participants.

[11] *Id.*

[12] The proposed rule change would not change or have any effect on Participants' ability to continue to access Status Information directly through the DTC Settlement User Interface.

[13] RAD allows Participants to review and either approve or reject incoming Deliveries before they are processed. *See* Settlement Guide, *supra* note 3 at 53. RAD limits a Participant's exposure from misdirected or erroneously entered transactions. *See* Settlement Guide, *supra* note 3 at 5.

[14] *See* Settlement Guide, *supra* note 3 at 54–55.

[15] *See* Settlement Guide, *supra* note 3 at 64–68.

[16] *See* Rules 9(A) and 9(B), *supra* note 3.

[17] *See* Settlement Guide, *supra* note 3 at 55.

[18] *See* Settlement Guide, *supra* note 3 at 55.

dealers, custodians, prime brokers, clearing brokers and other settlement agents, to resolve the issue underlying the Exception and successfully process the transaction. Communications among Participants that have direct access to Status Information through DTC and other counterparties regarding Exceptions are often processed in a decentralized manner via email, creating a time consuming process that is subject to error.

Any potential delays and/or errors in communicating the existence of an Exception and related Status Information among counterparties may impede the prompt and accurate clearance and settlement of affected Institutional Transactions. A Participant's timely receipt of information relating to an Exception would facilitate its ability to take an action to facilitate the processing of the related transaction. Examples of some of the actions the Participant may take include, as applicable, (i) making a settlement progress payment (''Settlement Progress Payment'') [19] to lower its net settlement debit and increase its Collateral Monitor in order to meet the DTC Net Debit Cap and Collateral Monitor risk controls, (ii) managing the Securities in its Account to increase its available Collateral, and/or (iii) communication with counterparties to the transaction with respect to a rejection so that the Deliverer and Receiver may agree on the details for any related transaction to be submitted and approved via RAD.

Proposed Rule Change

DTC has received a request from its Matching Utility affiliate, ITP Matching (US) LLC (''ITP''), to receive Status Information so that ITP may transmit the Status Information to counterparties in a centralized format. DTC believes that distribution of Status Information to relevant counterparties in a centralized format would facilitate Participants' ability to monitor Exceptions and coordinate with their institutional customers in order to resolve Exceptions.

Pursuant to the proposed rule change, in order to facilitate more seamless transmission of the Status Information for (i) Affirmed Transactions and (ii) other Institutional Transactions that may have been confirmed at a Matching Utility and received a Control Number, and are submitted directly to DTC by a Participant in an instruction containing the Control Number, (collectively, ''Eligible Transactions'') to Participants and facilitate their ability to manage Exceptions, DTC proposes to amend the Settlement Guide to provide that DTC may provide Status Information on Eligible Transactions to the applicable Matching Utility that submitted the transaction to DTC, or with respect to which its Control Number is included in transaction details provided by a Participant,[20] if so requested by the Matching Utility. In this regard, DTC would send to a Matching Utility Status Information for Eligible Transactions that DTC has received from the Matching Utility or have been entered by the Participant, that have a Control Number associated with that Matching Utility. The Status Information provided to the Matching Utility would include the status of the transaction (*e.g.,* the Delivery of Securities has been made within DTC, the transaction is pending Delivery within DTC, or the transaction was reclaimed (*i.e.,* sent back to the Deliverer)) and a reason for any pending status (*e.g.,* the Deliverer has insufficient inventory in the applicable Securities, the Deliverer has insufficient Collateral, the Receiver to the transaction has insufficient Net Debit Cap, etc.). The Status Information would also include information (''Identifying Information'') to facilitate the Matching Utility's ability to identify the applicable Eligible Transaction and reconcile the Status Information to the Eligible Transaction in its records. Identifying Information would include, but not be limited to, (i) the applicable Control Number (ii) identification numbers of the Participants to the transaction, (iii) quantity of Securities, (iv) dollar amount of the transaction, and (v) an indicator of whether the transaction was submitted to DTC by the Matching Utility or directly by a Participant.

DTC believes that sharing Status Information with a Matching Utility, on behalf of a Participant, would foster coordination among persons engaged in the clearance and settlement of Institutional Transactions by facilitating enhanced access to information for relevant parties that may promote their ability to manage Exceptions.

Proposed Changes to the Settlement Guide

Pursuant to the proposed rule change, DTC proposes to revise the Settlement Guide to allow DTC to provide Status Information of (i) Affirmed Transactions and (ii) other institutional transactions to a Matching Utility that requests such information, but only for those transactions that are associated with a Control Number relating to the Matching Utility. The proposed text to the Settlement Guide would also (x) describe the types of Status Information and related Identifying Information that would be shared with a Matching Utility in this regard, as described above and (y) provide that DTC may charge a fee (''Status Information Fee'') to a Matching Utility that receives Status Information as set forth in the DTC Fee Guide.[21] The proposed rule change would also add a defined term for ''Control Number'' to the Settlement Guide in existing text where the term is referred to but not defined.

The proposed rule change would require that prior to providing Status Information to a Matching Utility, DTC would obtain the written agreement, in such form as determined by DTC from time to time (''Status Information Agreement''), from the Matching Utility that includes (i) a request from the Matching Utility to receive Status Information from DTC, (ii) an agreement by the Matching Utility that the Matching Utility will not distribute Status Information to any third party other than (a) the Participants indicated on the Status Information and (b) the institutional customers that are counterparties to the transaction for which the Participants indicated on the Status Information are acting with respect to the transaction, (iii) the agreement of the Matching Utility that the Matching Utility will indemnify, hold harmless and agree, on demand, to reimburse DTC, its stockholders, officers, directors and employees from and against and for any and all claims, liabilities, obligations, damages, actions, penalties, losses, costs, expenses and disbursements, including, without limitation, attorneys' fees and disbursements (''Claims''), which they may sustain by reason of DTC's providing Status Information to the Matching Utility, except for any Claims

[19] A Settlement Progress Payment is a payment wired intraday by a Participant to DTC's account at the Federal Reserve Bank of New York. The amount of a Settlement Progress Payment is (i) credited to the Participant's intraday net settlement balance and (ii) is Collateral that supports the Participant's Collateral Monitor. *See also* Rule 1, *supra* note 3 (definition of Collateral) and Settlement Guide, *supra* note 3 at 62–63.

[20] It is DTC's understanding that a transaction that has been confirmed within a Matching Utility's system, but has not been affirmed, may be assigned a Control Number by the Matching Utility. Any transaction not affirmed by a Matching Utility would not be submitted by it to DTC as an Affirmed Transaction. In that case, the Participant may submit the transaction directly through DTC as a Deliver Order, and include the applicable Control Number as assigned by the Matching Utility on its submission to DTC.

[21] Available at *http://www.dtcc.com/~/media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf.* Any such fee would be the subject of a subsequent proposed rule change that DTC would file with the Commission.

which result from the gross negligence or willful misconduct of the person asserting a right to indemnification, (iv) the agreement of the Matching Utility to pay the Status Information Fee, (v) the agreement of the Matching Utility to notify DTC immediately if the Matching Utility becomes aware of Status Information provided to it by DTC being distributed to a third party other than as authorized pursuant to (ii) above, and (vi) the acknowledgement of the Matching Utility that DTC may terminate the Status Information Agreement in the event that (a) DTC becomes aware that the Matching Utility has used or distributed the Status Information in a manner that violates the terms of the Status Information Agreement, (b) the Matching Utility does not pay the Status Information Fee in accordance with the terms of the Fee Schedule, or (c) DTC submits a rule filing to the SEC, which is approved by the SEC or otherwise becomes effective pursuant to the Act to discontinue DTC's distribution of Status Information to Matching Utilities.

Implementation Timeframe

The proposed rule change would be effective upon approval of the proposed rule change by the Commission.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act [22] requires, *inter alia,* that the Rules promote the prompt and accurate clearance and settlement of securities transactions. DTC believes that the proposed rule changes are consistent with this provision because by allowing DTC to provide Status Information to Matching Utilities in accordance with the proposal as described above, the proposed rule change would facilitate the distribution of information on Exceptions to the parties of Eligible Transactions. This distribution of Status Information would allow for enhanced communication among the parties to an Eligible Transaction to address an Exception so that the Eligible Transaction may meet DTC controls and be processed for end-of-day settlement. Therefore, by facilitating the distribution of Status Information to a Matching Utility, and thereby facilitating the ability of a Matching Utility to provide this information to the applicable parties to an Eligible Transaction that may address related Exceptions and resolve related issues so that a transaction may be processed for settlement, DTC believes that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions consistent with Section 17A(b)(3)(F) of the Act.[23]

Rule 17Ad–22(e)(20) [24] promulgated under the Act requires DTC to establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, identify, monitor, and manage risks related to any link the covered clearing agency establishes with one or more other clearing agencies, financial market utilities, or trading markets. DTC believes that the proposed rule change is consistent with this Rule because the proposed Status Information Agreement, which would include the terms as set forth above, that would be required to be provided by a Matching Utility prior to DTC distributing Status Information to it, would limit DTC's exposure to legal risks and expenses that may otherwise arise in connection with such distribution by including an indemnity from the Matching Utility with respect to its receipt of Status Information and manage privacy risk by requiring Matching Utilities to not distribute Status Information to unauthorized third parties, as described above.

(B) Clearing Agency's Statement on Burden on Competition

DTC believes the proposed rule change could impact competition.[25] DTC does not believe that the proposed rule change to allow DTC to provide Status Information to a Matching Utility that is a party to a transaction (*i.e.,* the party originating the confirm or processing the affirm) would impose a burden on competition for Matching Utilities and Participants, because by adding text to the Settlement Guide to allow DTC to provide Status Information to a Matching Utility, as applicable, the proposal is merely facilitating the transmission of Status Information that would enable the counterparties to an Eligible Transaction to address Exceptions in order to facilitate processing of the transaction by DTC. In addition, Status Information would be available to any Matching Utility that requests it and satisfies the applicable requirements that would be set forth in the Settlement Guide. DTC does not believe the proposed rule change that would add text referencing that DTC may charge a fee to a Matching Utility that receives Status Information would impose a burden on competition, because any such fee would not take effect until after such a fee is filed as part of a subsequent rule filing that would be submitted by DTC to the Commission. DTC believes that the provision of Status Information to a Matching Utility could promote competition, to the extent Status Information is further transmitted by the Matching Utility to the counterparties to an applicable Eligible Transaction, by facilitating Participants' ability to address an Exception that may affect the processing of the Eligible Transaction at DTC.

(C) *Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments relating to this proposed rule change have not been solicited or received. DTC will notify the Commission of any written comments received by DTC.

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 such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2018–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2018–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] *Id.*

[24] 17 CFR 240.17Ad–22(e)(20).

[25] 15 U.S.C. 78q–1(b)(3)(I).

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 DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–DTC–2018–010 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26913 Filed 12–11–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84739; File No. SR–CBOE–2018–074]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Adopt a Shell Structure for the Cboe Options Rulebook in Connection With the Migration of the Exchange to Bats Technology

December 6, 2018.

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 26, 2018, 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 Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to adopt a shell structure for the Cboe Options rulebook (''Rulebook'') in connection with the migration of the Exchange to Bats technology.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, EDGA, and BZX, the ''Cboe Affiliated Exchanges''). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its technology onto the same trading platform as the other Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. Cboe Options believes offering similar functionality to the extent practicable will reduce potential confusion for market participants.

In connection with this technology migration, the Exchange proposes to add a shell structure that would reside alongside its current Rulebook. The proposed shell outlines the various chapters, and sections within certain chapters, of the future Rulebook, as well as contains new chapter numbering. In subsequent rule changes, Cboe Options will amend its Rules to reflect proposed changes to its system in connection with the system migration. Cboe Options will also submit subsequent rule changes to move rule text that will not change as part of the technology migration from the current Rulebook to the future Rulebook.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes the proposed rule change will remove impediments to

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

a free and open market, as it will start the process of updating and reorganizing the Exchange's Rulebook in connection with the migration of its system to Bats technology. This will ensure Trading Permit Holders can easily identify the Rules that will be in place upon implementation of the technology migration, which benefits investors. The proposed rule change makes no substantive changes to the current Rulebook.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change makes nonsubstantive changes and has no impact on trading on the Exchange, as they are intended to start the process of updating and reorganizing the Exchange's Rulebook in connection with the migration of its system to Bats technology.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9] 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–2018–074 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–2018–074. 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–2018–074 and should be submitted on or before January 2,2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

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[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 the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84734; File No. SR–MIAX–2018–37]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 510, Minimum Price Variations and Minimum Trading Increments, To Adopt Interpretations and Policies .03

December 6, 2018.

Pursuant to the provisions of 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 28, 2018, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to relocate Rule 404, Interpretations and Policies .11 (''SPIKES Index Options'') to Rule 510, Minimum Price Variations and Minimum Trading Increments, new Interpretations and Policies .03, and to make a non-substantive conforming change to a cross-reference in the rule.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, 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 relocate existing Exchange Rule 404, Interpretations and Policies .11, SPIKES Index Options, to Rule 510 (''Minimum Price Variations and Minimum Trading Increments''), Interpretations and Policies .03. This proposal seeks to better organize the rules of the Exchange in order to make the rules easier to read and to ensure that this rule is located in the appropriate chapter. The Exchange also proposes to make a non-substantive conforming change to a cross-reference in the rule, in order to reflect the relocation of the rule to a more suitable chapter in the Exchange's rulebook. Specifically, the Exchange proposes to change the current language which states that ''[n]otwithstanding any other provision of this Rule 404, the minimum trading increment for options on the SPIKES Index shall be as follows: (1) If the options series is trading at less than $3.00, five (5) cents; and (2) if the options series is trading at $3.00 or higher, ten (10) cents,'' to now read ''[n]otwithstanding any other provision of this Rule 510, the minimum trading increment for options on the SPIKES Index shall be as follows: (1) If the options series is trading at less than $3.00, five (5) cents; and (2) if the options series is trading at $3.00 or higher, ten (10) cents,'' in order to update the cross-reference in the rule.

The Exchange notes that the changes proposed herein are non-substantive rule changes, and do not modify the application of the rule which the Exchange proposes to relocate. The Exchange believes that by now relocating this rule, and making a non-substantive conforming change to a cross-reference within the rule, it will relocate the rule into a more appropriate chapter in the Exchange's rulebook.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [3] in general, and furthers the objectives of Section 6(b)(5) of the Act [4] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed change promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system because the proposed rule change improves the way the Exchange's rulebook is organized, making it easier to read, and avoids confusion by relocating a rule which is more appropriately located in another chapter of the Exchange's rulebook; and makes a non-substantive conforming change to a cross-reference in the rule, in order to reflect the relocation of the rule to a more suitable chapter in the Exchange's rulebook, therefore, helping market participants to better understand the rules of the Exchange. The Exchange notes that the proposed change does not alter the application of the rule. As such, the proposed amendment would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. In particular, the Exchange believes that the proposed change will provide greater clarity to Members [5] and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will have no impact on competition as it is not designed to address any competitive issues but rather is designed to add additional clarity to existing rules by making a non-substantive change to relocate the rule to a different chapter in the Exchange's rulebook, and by making a conforming change to an existing cross-reference in the rule, in order to reflect the relocation of the rule to a more suitable chapter in the Exchange's rulebook.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition as the Rules apply equally to all Exchange Members.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

A proposed rule change filed under Rule 19b–4(f)(6) [8] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the waiver will allow the Exchange to immediately improve the organization of its rulebook and avoid confusion for market participants reading the rules of

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 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 the 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.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

the Exchange. 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 as operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2018–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2018–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2018–37 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

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[10] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84729; File No. SR–ISE–2018–96]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Bid/Ask Differentials

December 6, 2018.

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 28, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE Rule 701, entitled ''Opening,'' ISE Rule 803, entitled ''Obligations of Market Makers'' and ISE Rule 100, entitled ''Definitions.''

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE proposes several amendments in this rule change. First, the Exchange proposes to amend ISE Rule 701, entitled ''Opening'' and ISE Rule 803, entitled ''Obligations of Market Makers'' to correct inconsistencies between the Exchange's rule text and the operation of the System. Second, the Exchange proposes to add definitions to ISE Rule 100 to define ''in-the-money'' and ''out-of-the-money'' option series. Third, the Exchange proposes to correct various cross references to Rule 100. Each amendment will be described in more detail below.

Rule 701

Today, for the Opening Process, ISE Rule 701(a)(8) defines a ''Valid Width Quote'' as a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4).[3]

[3] ISE Rule 803(b)(4) provides:

''To price options contracts fairly by, among other things, bidding and offering so as to create differences of no more than $5 between the bid and offer following the opening rotation in an equity or index options contract. Prior to the opening rotation, spread differentials shall be no more than $.25 between the bid and offer for each options contract for which the bid is less than $2, no more than $.40 where the bid is at least $2 but does not exceed $5, no more than $.50 where the bid is more than $5 but does not exceed $10, no more than $.80 where the bid is more than $10 but does not exceed $20, and no more than $1 where the bid is $20 or greater, provided that the Exchange may establish differences other than the above for one or more options series.

Continued

Specifically, for the Opening Process, ISE Rule 803(b)(4) states that, for in-the money option series, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. In practice, however, the Exchange's System permits a Valid Width Quote in the Opening Process to be as wide as the quotation for the underlying security on the primary (listing) market.[4]

Proposal

The Exchange proposes to codify its current practice and correctly reflect in its Rules that the Valid Width Quote in the Opening Process apply a primary market analysis, not a national best bid or offer (''NBBO'') analysis.[5] Specifically, this proposal would conform the current rule text to the current System by amending the definition of a Valid Width Quote in Rule 701, ''Opening,'' so that, in the case of in-the-money option series [6] where the market for the underlying security is wider than the differentials set forth within ISE Rule 803(b)(4), the bid/ask differential may be as wide as the quotation for the underlying security on the primary [7] (listing) market, or its decimal equivalent rounded down to the nearest minimum increment.

The Exchange believes that utilizing the primary market in the Opening Process is reasonable given the close connection between the primary market and the Opening Process. For example, ISE Rule 701(c)(2) provides, ''For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.''

Today, in order to open, the Exchange requires either: (i) The Primary Market Maker's (''PMM'') Valid Width Quote; (ii) the Valid Width Quotes of at least two Competitive Market Makers (''CMM''); or (iii) if neither the PMM's Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote. The Exchange notes that it requires Market Makers to submit Valid Width Quotes during the Opening Process to guarantee liquidity, unlike other markets which may not require market makers to quote during the opening.[8] Further, amending the rule text to conform to its current practice will avoid confusion and continue to permit ISE to remain one of the strongest openings in the industry.

Discretion

The Exchange proposes to codify its current practice and amend ISE Rule 803(b)(4) to adopt rule text which permits the Exchange intra-day discretion for bid/ask differentials similar to the discretion currently permitted in the Opening Process. The Exchange proposes to add a sentence to the end of the paragraph in ISE Rule 803(b)(4) indicating the Exchange may establish differences other than the above for one or more series or classes of options. The Exchange notes that it utilizes this discretion today to grant relief for individual options classes as well as relief for all option classes based upon specific criteria. Today, Market Makers may request quote relief. When determining whether to grant quote relief the Exchange considers, among other factors, the following: (i) Pending corporate actions with undisclosed or uncertain terms; (ii) company or industry news with anticipated significant market impact; (iii) government news of a sensational nature. The Exchange believes that it is necessary to grant quote relief in certain circumstances where a Market Maker may not have enough information to maintain fair and orderly markets. The Exchange notes that other markets have similar discretion for intra-day quotes today.[9]

Rule 100

ISE rules currently do not define an ''in-the-money'' or ''out-of-the-money'' option series. As part of this rule change, the Exchange proposes to define these above-referenced terms within ISE Rule 100 to bring greater transparency to its rules with respect to Market Maker quoting. The Exchange proposes to define the term ''in-the-money'' option at Rule 100(a)(28), which is currently reserved, as the following: For call options, all strike prices at or below the offer in the underlying security on the primary listing market; for put options, all strike prices at or above the bid in the underlying security on the primary listing market. The Exchange proposes to define an ''out-of-the-money'' option at Rule 100(a)(40), which is currently reserved, to mean the following: For call options, all strike prices above the offer in the underlying security on the primary listing market; for put options, all strike prices below the bid in the underlying security on the primary listing market.[10] Each of these definitions would apply for purposes of Market Maker quoting obligations in Rules 701 and 803. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules.

The Exchange has added these definitions into the existing rules in alphabetical order. The Exchange proposes to renumber the rules to account for the addition of these two new definitions and proposes to amend cross-references to Rule 100 within the Rulebook to reflect the proposed new numbering within Rule 100.

Cross References

The Exchange proposes to amend cross-references to Rule 100 in Rules 713, 720 and Rule 1901 to refer to the current definitions.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the

(i) The bid/offer differentials stated in subparagraph (b)(4) of this Rule shall not apply to in-the-money options series where the underlying securities market is wider than the differentials set forth above. For these series, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security.''

[4] In connection with the ISE migration, the primary market was utilized beginning on June 12, 2017 as each symbol migrated to the INET platform.

[5] The Exchange notes that today ISE utilizes the primary market in calculating the bid/ask differential during the Opening Process. This rule change would amend the rule to reflect ISE's current practice.

[6] An at-the-money option series would also qualify. An out-of-the-money series would not qualify.

[7] The term ''primary market'' means the principal market in which an underlying security is traded. *See* ISE Rule 100(a)(48).

[8] The Nasdaq Options Market (''NOM'') does not require NOM Market Makers to quote during the opening, however if a NOM Market Maker decided to quote during the opening, the Market Maker would be permitted to submit a bid/ask differential with a difference not to exceed $5 between the bid and offer regardless of the price of the bid. However, respecting in-the-money series where the market for the underlying security is wider than $5, the bid/ask differential may be as wide as the spread between the national best bid and offer in the underlying security. *See* NOM Rules at Chapter VII, Section 6(d)(ii).

[9] *See* Nasdaq Phlx LLC Rule 1014(c)(i)(A)(1)(a), Miami International Securities Exchange LLC Rule 604b)(4), Cboe Exchange, Inc. Rule 8.7(d), NYSE American LLC Rule 925NY(b)(4), NYSE Arca, Inc. 6.37–O(b)(4).

[10] The Exchange notes that it does not utilize a last sale calculation. The Exchange believes that the quotation for the underlying security on the primary market provides an accurate reflection of the market. A last sale calculation may not be an accurate reflection of the market because the last sale may not be representative of the primary market in all cases, particularly if a halt were to occur.

[11] 15 U.S.C. 78f(b).

objectives of Section 6(b)(5) of the Act,[12] 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 notes that today ISE utilizes the primary market in calculating the bid/ask differential during the Opening Process, although the current rule does not reflect this practice. This rule change would amend the rule to reflect ISE's current practice.

Rules 701 and 803

The Exchange's proposal to amend the Opening Process to conform to current practice is consistent with the Act because while the Exchange believes that relying on the primary market or the NBBO accurately reflect the current trading environment and take into consideration market conditions, the Exchange's current Opening Process is designed to utilize the primary standard during the Opening Process.[13]

Discretion

The Exchange's proposal to amend its rule to permit intra-day discretion to conform to current practice is consistent with the Act because such discretion is necessary to permit the Exchange the ability to attract liquidity from Market Makers while also maintaining a fair and orderly market. Market Makers accept a certain amount of risk when quoting on the Exchange. The Exchange imposes quoting and other obligations on Market Makers.[14] The Exchange notes that these risks which Market Makers accept each trading day are calculated risks. The Exchange notes that it considers certain factors, which are likely unforeseen, in determining whether to grant relief either in individual options classes or for all option classes based upon specific criteria. Specifically, the Exchange considers, among other factors, the following: (i) Pending corporate actions with undisclosed or uncertain terms; (ii) company or industry news with anticipated significant market impact; (iii) government news of a sensational nature. The Exchange believes that it is necessary to grant quote relief in certain circumstances where a Market Maker may not have enough information to maintain fair and orderly markets. The Exchange notes that other markets have similar discretion for intra-day quotes today.[15]

Rule 100

The Exchange's proposal to define the terms ''in-the-money'' and ''out-of-the-money'' for purposes of Market Maker quoting obligations in Rules 701 and 803 is consistent with the Act and protects investors and the public interest by bringing greater transparency to the Rulebook. Each of these defined terms would apply for purposes of Market Maker quoting obligations in Rules 701 and 803. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which ''in-the-money'' and ''out-of-the-money'' options series are defined for purposes of other options rules.

Cross-References

The Exchange's proposal to amend cross-references to Rule 100 within Rules 713, 720 and Rule 1901 to refer to the current definitions is consistent with the Act because it will correct references to definitions.

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.

Rules 701 and 803

The Exchange's proposal to codify its current practice of utilizing the primary market in the Opening Process does not unduly burden competition because the current practice maintains a close connection between the primary market and the Opening Process. The primary market reflects the current trading environment. The Exchange notes that the proposal does not create an undue burden on intra-market competition because Market Makers are the only market participants subject to quoting requirements and these participants have valuable information with respect to the underlying instrument under the current process to make informed decisions and take calculated risks in the marketplace when providing liquidity. Market Makers remain responsible for maintaining fair and orderly markets.

Discretion

The Exchange's proposal to codify the Exchange's ability to permit intra-day discretion similar to the discretion currently permitted in the Opening Process does not impose an undue burden on competition because Market Makers are the only market participants subject to quoting requirements and the proposal specifically considers the need for Market Makers to have information to make informed decisions to make calculated risks in the marketplace so that they may provide liquidity while maintaining fair and orderly markets. The proposed amendments do not create undue burdens on inter-market competition because other options markets have the same intra-day requirements.[16]

Rule 100

The Exchange's proposal to define the terms ''in-the-money'' or ''out-of-the-money'' for purposes of Market Maker quoting obligations in Rules 701 and 803 does not unduly burden competition, rather it adds greater transparency to the Rulebook and makes clear the applicability of the definitions to avoid confusion with respect to the remainder of the options rules.

Cross-References

The Exchange's proposal to amend cross-references to Rule 100 in Rules 713, 720 and Rule 1901 to refer to the current definitions does not unduly burden competition because it will correct references to definitions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and subparagraph (f)(6) of Rule 19b–4 thereunder.[18]

[12] 15 U.S.C. 78f(b)(5).

[13] ISE Rule 701(c)(2) provides, ''For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence. The time period shall be no less than 100 milliseconds and no more than 5 seconds.''.''

[14] *See* ISE Rules 803 and 804.

[15] *See* note 9 above.

[16] *See* note 9 above.

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to

Continued

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that immediately codifying its current practice within its rules to accurately reflect the operation of the Exchange's System will avoid confusion. 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 as operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2018–96 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2018–96. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2018–96 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26826 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the 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.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84735; File No. SR–NYSEArca–2018–87]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 5.1–E(a)(2)

December 6, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 27, 2018, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') 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 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 NYSE Arca Rule 5.1–E(a)(2) to remove the requirement that the Exchange file with the Securities and Exchange Commission (the ''Commission'') a Form 19b–4(e) for each ''new derivative securities product'' that will commence trading on the Exchange pursuant to unlisted trading privileges. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend NYSE Arca Rule 5.1–E(a)(2)(i) to remove the requirement that the Exchange file with the Commission a Form 19b–4(e) for each ''new derivative securities product'' that will commence trading on the Exchange pursuant to unlisted trading privileges. The Exchange also proposes to renumber the remaining subsections of NYSE Arca Rule 5.1–E(a)(2) to maintain an organized rule structure. The Exchange notes that a substantially identical proposed rule change by NYSE National, Inc. (''NYSE National'') was recently approved by the Commission.[4]

NYSE Arca Rule 5.1–E(a)(2)(i) sets forth the requirement for the Exchange to file with the Commission a Form 19b–4(e) with respect to each ''new derivative securities product'' that is traded pursuant to unlisted trading privileges. However, the Exchange believes that it should not be necessary to file a Form 19b–4(e) with the Commission if it begins trading a ''new derivative securities product'' pursuant to unlisted trading privileges, because Rule 19b–4(e)(1) under the Act refers to the ''listing and trading'' of a ''new derivative securities product.'' The Exchange believes that the requirements of that rule refer to when an exchange lists and trades a ''new derivative securities product'', and not when an exchange seeks only to trade such product pursuant to unlisted trading privileges pursuant to Rule 12f–2 under the Act.[5] Therefore, the Exchange proposes to delete the requirement in current NYSE Arca Rule 5.1–E(a)(2)(i) for the Exchange to file a Form 19b–4(e) with the Commission with respect to each ''new derivative securities product'' it begins trading pursuant to unlisted trading privileges. In addition, as a result of the deletion of current NYSE Arca Rule 5.1–E(a)(2)(i), the Exchange proposes to renumber current NYSE Arca Rules 5.1–E(a)(2)(ii)–(vi). Lastly, the Exchange proposes to delete a duplicative reference to subparagraph (v).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[6] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, eliminating the requirement to file a Form 19b–4(e) for each ''new derivative securities product'' the Exchange begins trading on an unlisted trading privileges basis removes an unnecessary regulatory requirement thereby providing for a more efficient process for adding a ''new derivative securities product'' to trading on the Exchange on an unlisted trading privileges basis.

As noted above, the Commission recently approved a substantially identical proposed rule change by NYSE National.[8] In particular, the Commission noted in the approval order that it ''believes that the filing of a Form 19b–4(e) is not required when an Exchange is trading a new derivative securities product on a UTP basis only''[9] and also found that the NYSE National's proposed rule change is ''consistent with the requirements of Section 6(b)(5) of the Act.''[10] The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq PHLX LLC (''PHLX''), Nasdaq BX, Inc. (''BX'') and Investors Exchange LLC (''IEX'') also recently amended their rules to remove the requirement to file with the Commission a Form 19b–4(e) for each ''new derivative securities product'' traded on each of those exchanges pursuant to unlisted trading privileges.[11]

With respect to the renumbering of current NYSE Arca Rules 5.1–E(a)(2)(ii)–(vi) and the deletion of the duplicative reference to subparagraph (v), the Exchange believes that these changes are consistent with the Act because they will allow the Exchange to maintain a clear and organized rule structure, thus preventing investor confusion.

For these reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, removing the requirement to file a Form 19b–4(e) will serve to enhance competition by providing for the efficient addition of new derivative securities products for trading pursuant to unlisted trading privileges on the Exchange. To the extent that a competitor marketplace believes that the proposed rule change places it at a competitive disadvantage, it may file with the Commission a proposed rule change to adopt the same or similar rule.

In addition, the proposal to renumber current NYSE Arca Rules 5.1–E(a)(2)(ii)–(vi) does not impact competition in any respect since it merely maintains a clear and organized rule structure.

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 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[12] and Rule 19b–4(f)(6) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that the Exchange's proposal does not present

[4] *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (Order Approving File No. SR–NYSENat–2018–02).

[5] 17 CFR 240.12f–2.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (Order Approving File No. (SR–NYSENat–2018–02).

[9] *See supra* note 10 [sic] at page 23975 at footnote 149.

[10] *See supra* note 10 [sic] at page 23975–6.

[11] *See* Securities Exchange Act Release Nos. 84488 (October 25, 2018), 83 FR 54801 (October 31, 2018) (SR–NASDAQ–2018–082); 84542 (November 6, 2018), 83 FR 56385 (November 13, 2018) (SR–Phlx–2018–67); 84546 (November 7, 2018) 83 FR 56888 (November 14, 2018) (SR–BX–2018–051); and 83609 (July 9, 2018), 83 FR 32704 (July 13, 2018) (SR–IEX–2018–14).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires 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.

any new or novel issues. Thus, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[14]

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–NYSEArca–2018–87 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–2018–87. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2018–87 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26832 Filed 12–11–18; 8:45 am]

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[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84724; File No. SR–NYSEAMER–2018–54]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change of Amendments to the Exchange's Rules To Delete References to the Term ''Allied Member'' and Correct Rule 2.1220

December 6, 2018.

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 30, 2018, NYSE American LLC (the ''Exchange'' or ''NYSE American'') 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 amendments to the Exchange's rules to delete references to the term ''allied member'' and correct an inadvertent error in Rule 2.1220. The proposed rule change is intended to harmonize Exchange rules with the rules of the Exchange's affiliates and the Financial Regulatory Authority, Inc. (''FINRA'') and thus promote consistency within the securities industry. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to delete the term ''allied member'' from its rules. The ''allied member'' designation is a regulatory category based on a person's control of a member organization. The Exchange's affiliate New York Stock Exchange LLC (the ''NYSE'') no longer has allied members, and FINRA has deleted the term from its Incorporated NYSE Rules.[4] In order to harmonize with the rules of the NYSE and FINRA, the Exchange accordingly proposes to delete reference to ''allied member'' from the following Exchange rules: Rule 2, Rule 2.21E, Rule 7.3E, Rule 18, Rule 25, Rule 50, Rule 204, Rule 310, Rule 317, Rule 320, Rule 341, Rule 341A, Rule 342, Rule 356, Rule 359, Rule 359B, Rule 415, the preamble to the rule regarding Proxies, Rule 458—Equities, Rule 472, Rule 481, Rule 520, Rule 624, Rule 724, Rule 900.2NY and Rule 9232. The Exchange also proposes to delete Rule 23, which defines the term allied member, and Rule 355, which provides the requirements for an allied membership, in their entirety.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 58549 (September 15, 2008), 73 FR 54444 (September 19, 2008) (SR–NYSE–2008–80) (Notice); Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (SR–FINRA–2008–036) (Order).

Additionally, in October 2017, the Exchange filed to amend its rules regarding qualification, registration and continuing education requirements applicable to member organizations, Equity Trading Permit Holders and American Trading Permit (''ATP'') Holders.[5] The Exchange mistakenly included a cross reference in Rule 2.1220(a)(7) to Rule 11.18(b)(2) (which does not exist) rather than to Rule 920(a) when amending these rules.

Rule 2.1220(a)(7) provides that each ATP Holder engaged in options transactions with the public have at least one Registered Options Principal. The rule further requires that a principal responsible for supervising an ATP Holder's options sales practices with the public, including a person designated pursuant to Rule 11.18(b)(2) register with the Exchange as a Registered Options Principal, unless such principal's options activities are limited solely to those activities that may be supervised by a General Securities Sales Supervisor, in which case, such person may register as a General Securities Sales Supervisor in lieu of registering as a Registered Options Principal. The reference to Rule 11.18(b)(2) is incorrect because there is no Rule 11.18(b)(2) in the Exchange rulebook. The correct reference should be to Rule 920(a).[6] Therefore, the Exchange proposes to replace the reference to Rule 11.18(b)(2) with Rule 920(a). The Exchange is not proposing to amend any other part of the Registration Rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will harmonize its rules with NYSE and FINRA rules, thus assisting members and member organizations in complying with those rules and thereby enhancing regulatory efficiency. In addition, the Exchange believes that providing greater harmonization between the Exchange and NYSE and FINRA rules would result in less burdensome and more efficient regulatory compliance for Exchange members and member organizations that are subject to regulatory examination and oversight, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5) of the Act. Additionally, the Exchange believes that deletion of the term ''allied member'' is consistent with the Act because the Exchange no longer recognizes allied member as a registration category and no Exchange member is currently registered as an allied member. Accordingly, deletion of the term from the Exchange's rules will provide clarity and remove any potential confusion among potential Exchange members and member organizations as to the category of memberships and registration requirements on the Exchange. Finally, the Exchange believes it is consistent with the Act to correct the incorrect cross reference in Rule 2.1220(a)(7) so that the Exchange's rules are accurate, avoiding any potential among ATP Holders.

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 amendments are intended to promote clarity to the Exchange's rules applicable to member organizations and their registered personnel. Further, the proposed changes would apply to all Exchange members and member organizations in the same manner and therefore would not impose any unnecessary intramarket burdens.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[5] *See* Securities Exchange Act Release No. 84388 (October 10, 2018), 83 FR 52287 (October 16, 2018) (SR–NYSEAmer–20018–46) (Notice) (''Registration Rules'').

[6] Rule 920(a) provides that ''no member organization shall transact any business with the public in option contracts unless those persons engaged in the supervision of options sales practices, or a person to whom the designated general partner or executive officer (pursuant to Rule 922) or another Registered Options Principal delegates the authority to supervise options sales practices, are registered with and approved by the Exchange as Options Principals.'' The rule further provides that ''no individual member shall transact any business directly with the public in option contracts unless he is registered with and approved by the Exchange as an Options Principal.''

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 15 U.S.C. 78s(b)(2)(B).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2018–54 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–54. 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–2018–54 and should be submitted on or before January 2, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26823 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–034, OMB Control No. 3235–0034]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 17f–2(a)

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 (''OMB'') a request for approval of extension of the previously approved collection of information provided for in the Rule 17f–2(a), (17 CFR 240.17f–2(a)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17f–2(a) (Fingerprinting Requirements for Securities Professionals) requires that securities professionals be fingerprinted. This requirement serves to identify security-risk personnel, to allow an employer to make fully informed employment decisions, and to deter possible wrongdoers from seeking employment in the securities industry. Partners, directors, officers, and employees of exchanges, brokers, dealers, transfer agents, and clearing agencies are included.

The Commission staff estimates that approximately 4,480 respondents will submit an aggregate total 289,780 new fingerprint cards each year or approximately 65 fingerprint cards per year per registrant. The staff estimates that the average number of hours necessary to complete a fingerprint card is one-half hour. Thus, the total estimated annual burden is 144,890 hours for all respondents (289,780 times one-half hour). The average internal labor cost of compliance per hour is approximately $283. Therefore, the total estimated annual internal labor cost of compliance for all respondents is $41,003,870 (144,890 times $283).

This rule does not involve the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: December 4, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–26851 Filed 12–11–18; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2018–0068]

Notice Announcing Addresses for Service of Process

AGENCY: Social Security Administration.

ACTION: Notice announcing addresses for summons and complaints.

SUMMARY: Our Office of the General Counsel (OGC) is responsible for processing and handling summonses and complaints in lawsuits involving judicial review of our final decisions on individual claims for benefits under titles II, VIII, and XVI of the Social Security Act (Act). This notice sets out the names and current addresses of those offices and the jurisdictions for which each office has responsibility.

FOR FURTHER INFORMATION CONTACT: David Mansfield, Office of the General Counsel, Office of Program Law, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6404, (410) 966–2305. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: You should mail summonses and complaints in cases involving judicial review of our final decisions on individual claims for benefits under titles II, VIII, and XVI of the Act directly to the OGC location responsible for the jurisdiction in which the complaint has been filed. This notice replaces the notice we published on February 23, 2017 (82 FR 11494), and reflects the current jurisdictional

assignments for our Regional Chief Counsels' Offices and our Office of Program Law. This notice reflects a change in the OGC jurisdictional assignments that will take effect for civil actions filed on or after January 1, 2019. The only changes in this notice from our 2017 notice reflect the reassignment of responsibility for cases filed in the Southern District of Alabama to the Office of the Regional Chief Counsel, Atlanta (Region IV); the District of Arizona to the Office of the Regional Chief Counsel, San Francisco (Region IX); and the Western District of Michigan to the Office of the Regional Chief Counsel, Kansas City (Region VI). The jurisdictional responsibilities, names, and addresses of our OGC offices are as follows:

Alabama

U.S. District Court—Middle District of Alabama: Office of the Regional Chief Counsel, Atlanta (Region IV).

U.S. District Court—Northern District of Alabama: Office of the Regional Chief Counsel, Atlanta (Region IV).

U.S. District Court—Southern District of Alabama: Office of the Regional Chief Counsel, Atlanta (Region IV).

Alaska

U.S. District Court—Alaska: Office of the Regional Chief Counsel, Seattle (Region X).

Arizona

U.S. District Court—Arizona: Office of the Regional Chief Counsel, San Francisco (Region IX).

Arkansas

U.S. District Court—Eastern District of Arkansas: Office of the Regional Chief Counsel, Dallas (Region VI).

U.S. District Court—Western District of Arkansas: Office of the Regional Chief Counsel, Dallas (Region VI).

California

U.S. District Court—Central District of California: Office of the Regional Chief Counsel, San Francisco (Region IX).

U.S. District Court—Eastern District of California: Office of the Regional Chief Counsel, San Francisco (Region IX).

U.S. District Court—Northern District of California: Office of the Regional Chief Counsel, San Francisco (Region IX).

U.S. District Court—Southern District of California: Office of the Regional Chief Counsel, San Francisco (Region IX).

Colorado

U.S. District Court—Colorado: Office of the Regional Chief Counsel, Denver (Region VIII).

Connecticut

U.S. District Court—Connecticut: Office of the Regional Chief Counsel, New York (Region II).

Delaware

U.S. District Court—Delaware: Office of the Regional Chief Counsel, Philadelphia (Region III).

District of Columbia

U.S. District Court—District of Columbia: Office of the Regional Chief Counsel, Philadelphia (Region III).

Florida

U.S. District Court—Middle District of Florida: Office of the Regional Chief Counsel, Atlanta (Region IV).

U.S. District Court—Northern District of Florida: Office of the Regional Chief Counsel, Atlanta (Region IV).

U.S. District Court—Southern District of Florida: Office of the Regional Chief Counsel, Atlanta (Region IV).

Georgia

U.S. District Court—Middle District of Georgia: Office of the Regional Chief Counsel, Atlanta (Region IV).

U.S. District Court—Northern District of Georgia: Office of the Regional Chief Counsel, Atlanta (Region IV).

U.S. District Court—Southern District of Georgia: Office of the Regional Chief Counsel, Atlanta (Region IV).

Guam

U.S. District Court—Guam: Office of the Regional Chief Counsel, San Francisco (Region IX).

Hawaii

U.S. District Court—Hawaii: Office of the Regional Chief Counsel, San Francisco (Region IX).

Idaho

U.S. District Court—Idaho: Office of the Regional Chief Counsel, Seattle (Region X).

Illinois

U.S. District Court—Central District of Illinois: Office of the Regional Chief Counsel, Chicago (Region V).

U.S. District Court—Northern District of Illinois: Office of the Regional Chief Counsel, Chicago (Region V).

U.S. District Court—Southern District of Illinois: Office of the Regional Chief Counsel, Chicago (Region V).

Indiana

U.S. District Court—Northern District of Indiana: Office of Program Law, Baltimore.

U.S. District Court—Southern District of Indiana: Office of the Regional Chief Counsel, Chicago (Region V).

Iowa

U.S. District Court—Northern District of Iowa: Office of the Regional Chief Counsel, Dallas (Region VI).

U.S. District Court—Southern District of Iowa: Office of the Regional Chief Counsel, Dallas (Region VI).

Kansas

U.S. District Court—Kansas: Office of the Regional Chief Counsel, Denver (Region VIII).

Kentucky

U.S. District Court—Eastern District of Kentucky: Office of the Regional Chief Counsel, Denver (Region VIII).

U.S. District Court—Western District of Kentucky: Office of the Regional Chief Counsel, Chicago (Region V).

Louisiana

U.S. District Court—Eastern District of Louisiana: Office of the Regional Chief Counsel, Dallas (Region VI).

U.S. District Court—Middle District of Louisiana: Office of the Regional Chief Counsel, Dallas (Region VI).

U.S. District Court—Western District of Louisiana: Office of the Regional Chief Counsel, Dallas (Region VI).

Maine

U.S. District Court—Maine: Office of the Regional Chief Counsel, Boston (Region I).

Maryland

U.S. District Court—Maryland: Office of Program Law, Baltimore.

Massachusetts

U.S. District Court—Massachusetts: Office of the Regional Chief Counsel, Boston (Region I).

Michigan

U.S. District Court—Eastern District of Michigan: Office of the Regional Chief Counsel, Boston (Region I).

U.S. District Court—Western District of Michigan: Office of the Regional Chief Counsel, Kansas City (Region VII).

Minnesota

U.S. District Court—Minnesota: Office of the Regional Chief Counsel, Dallas (Region VI).

Mississippi

U.S. District Court—Northern District of Mississippi: Office of the Regional Chief Counsel, Dallas (Region VI).

U.S. District Court—Southern District of Mississippi: Office of the Regional Chief Counsel, Dallas (Region VI).

Missouri

U.S. District Court—Eastern District of Missouri: Office of the Regional Chief Counsel, Kansas City (Region VII).

U.S. District Court Western District of Missouri: Office of the Regional Chief Counsel, Kansas City (Region VII).

Montana

U.S. District Court—Montana: Office of the Regional Chief Counsel, Seattle (Region X).

Nebraska

U.S. District Court—Nebraska: Office of the Regional Chief Counsel, Dallas (Region VI).

Nevada

U.S. District Court—Nevada: Office of the Regional Chief Counsel, San Francisco (Region IX).

New Hampshire

U.S. District Court—New Hampshire: Office of the Regional Chief Counsel, Boston (Region I).

New Jersey

U.S. District Court—New Jersey: Office of the Regional Chief Counsel, Philadelphia (Region III).

New Mexico

U.S. District Court—New Mexico: Office of the Regional Chief Counsel, Denver (Region VIII).

New York

U.S. District Court—Eastern District of New York: Office of the Regional Chief Counsel, New York (Region II).

U.S. District Court—Northern District of New York: Office of the Regional Chief Counsel, New York (Region II).

U.S. District Court—Southern District of New York: Office of the Regional Chief Counsel, New York (Region II).

U.S. District Court—Western District of New York: Office of the Regional Chief Counsel, New York (Region II).

North Carolina

U.S. District Court—Eastern District of North Carolina: Office of Program Law, Baltimore.

U.S. District Court—Middle District of North Carolina: Office of the Regional Chief Counsel, Philadelphia (Region III).

U.S. District Court—Western District of North Carolina: Office of Program Law, Baltimore.

North Dakota

U.S. District Court—North Dakota: Office of the Regional Chief Counsel, Dallas (Region VI).

Northern Mariana Islands

U.S. District Court—Northern Mariana Islands: Office of the Regional Chief Counsel, San Francisco (Region IX).

Ohio

U.S. District Court—Northern District of Ohio: Office of the Regional Chief Counsel, Chicago (Region V).

U.S. District Court—Southern District of Ohio: Office of the Regional Chief Counsel, Chicago (Region V).

Oklahoma

U.S. District Court—Eastern District of Oklahoma: Office of the Regional Chief Counsel, Denver (Region VIII).

U.S. District Court—Northern District of Oklahoma: Office of the Regional Chief Counsel, Denver (Region VIII).

U.S. District Court—Western District of Oklahoma: Office of the Regional Chief Counsel, Denver (Region VIII).

Oregon

U.S. District Court—Oregon: Office of the Regional Chief Counsel, Seattle (Region X).

Pennsylvania

U.S. District Court—Eastern District of Pennsylvania: Office of the Regional Chief Counsel, Philadelphia (Region III).

U.S. District Court—Middle District of Pennsylvania: Office of the Regional Chief Counsel, Philadelphia (Region III).

U.S. District Court—Western District of Pennsylvania: Office of the Regional Chief Counsel, Philadelphia (Region III).

Puerto Rico

U.S. District Court—Puerto Rico: Office of the Regional Chief Counsel, New York (Region II).

Rhode Island

U.S. District Court—Rhode Island: Office of the Regional Chief Counsel, Boston (Region I).

South Carolina

U.S. District Court—South Carolina: Office of the Regional Chief Counsel, Philadelphia (Region III).

South Dakota

U.S. District Court—South Dakota: Office of the Regional Chief Counsel, Dallas (Region VI).

Tennessee

U.S. District Court—Eastern District of Tennessee: Office of the Regional Chief Counsel, Kansas City (Region VII).

U.S. District Court—Middle District of Tennessee: Office of the Regional Chief Counsel, Kansas City (Region VII).

U.S. District Court—Western District of Tennessee: Office of the Regional Chief Counsel, Kansas City (Region VII).

Texas

U.S. District Court—Eastern District of Texas: Office of the Regional Chief Counsel, Dallas (Region VI).

U.S. District Court—Northern District of Texas: Office of the Regional Chief Counsel, Dallas (Region VI).

U.S. District Court—Southern District of Texas: Office of the Regional Chief Counsel, Dallas (Region VI).

U.S. District Court—Western District of Texas: Office of the Regional Chief Counsel, Dallas (Region VI).

Utah

U.S. District Court—Utah: Office of the Regional Chief Counsel, Denver (Region VIII).

Vermont

U.S. District Court—Vermont: Office of the Regional Chief Counsel, New York (Region II).

Virgin Islands

U.S. District Court—Virgin Islands: Office of the Regional Chief Counsel, New York (Region II).

Virginia

U.S. District Court—Eastern District of Virginia: Office of the Regional Chief Counsel, Philadelphia (Region III).

U.S. District Court—Western District of Virginia: Office of the Regional Chief Counsel, Philadelphia (Region III).

Washington

U.S. District Court—Eastern District of Washington: Office of the Regional Chief Counsel, Seattle (Region X).

U.S. District Court—Western District of Washington: Office of the Regional Chief Counsel, Seattle (Region X).

West Virginia

U.S. District Court—Northern District of West Virginia: Office of the Regional Chief Counsel, Philadelphia (Region III).

U.S. District Court—Southern District of West Virginia: Office of the Regional Chief Counsel, Philadelphia (Region III).

Wisconsin

U.S. District Court—Eastern District of Wisconsin: Office of the Regional Chief Counsel, Chicago (Region V).

U.S. District Court—Western District of Wisconsin: Office of the Regional Chief Counsel, Chicago (Region V).

Wyoming

U.S. District Court—Wyoming: Office of the Regional Chief Counsel, Denver (Region VIII).

Addresses of OGC Offices

Office of Program Law, Office of the General Counsel, Social Security

Administration, 6401 Security Boulevard, Altmeyer Building, Room 617, Baltimore, MD 21235–6401
Office of the Regional Chief Counsel, Region I, Social Security Administration, JFK Federal Building, Room 625, 15 New Sudbury Street, Boston, MA 02203–0002
Office of the Regional Chief Counsel, Region II, Social Security Administration, 26 Federal Plaza, Room 3904, New York, NY 10278–0004
Office of the Regional Chief Counsel, Region III, Social Security Administration, 300 Spring Garden Street, 6th Floor, Philadelphia, PA 19123–2932
Office of the Regional Chief Counsel, Region IV, Social Security Administration, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, Suite 20T45, Atlanta, GA 30303–8910
Office of the Regional Chief Counsel, Region V, Social Security Administration, 200 West Adams Street, 30th Floor, Chicago, IL 60606–5208
Office of the Regional Chief Counsel, Region VI, Social Security Administration, 1301 Young Street, Ste. A–702, Dallas, TX 75202–5433
Office of the Regional Chief Counsel, Region VII, Social Security Administration, Richard Bolling Federal Building, 601 E. 12th Street, Room 965, Kansas City, MO 64106–2898
Office of the Regional Chief Counsel, Region VIII, Social Security Administration, 1961 Stout Street, Suite 4169, Denver, CO 80294–4003
Office of the Regional Chief Counsel, Region IX, Social Security Administration, 160 Spear Street, Suite 800, San Francisco, CA 94105–1545
Office of the Regional Chief Counsel, Region X, Social Security Administration, 701 Fifth Avenue, Suite 2900 M/S 221A, Seattle, WA 98104–7075

Nancy A. Berryhill,

Acting Commissioner of Social Security.

[FR Doc. 2018–26858 Filed 12–11–18; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2018–0065]

Modifications to the Disability Determination Procedures; End of the Single Decisionmaker Test and Extension of the Prototype Test

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: We are announcing the end of the ''single decisionmaker'' test, consistent with our notice in the **Federal Register** in 2016, in which we said that we would end the test by December 28, 2018. This notice also extends the separate ''prototype'' test until its cessation in June 2020.

DATES: This notice is applicable on December 12, 2018.

FOR FURTHER INFORMATION CONTACT: William P. Gibson, Office of Legislation and Congressional Affairs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–9039, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: Our current rules authorize us to test, individually or in any combination, certain modifications to the disability determination procedures. 20 CFR 404.906 and 416.1406. We conducted several tests under the authority of these rules. In the ''single decisionmaker'' test, a disability examiner may make the initial disability determination in most cases without obtaining the signature of a medical or psychological consultant. Under section 832 of the Bipartisan Budget Act of 2015 (BBA),[1] we are required to end the single decisionmaker test. On August 25, 2016, we announced that we would conclude use of the single decisionmaker test by December 28, 2018. 81 FR 58544.

We ended the single decisionmaker test on October 1, 2018, in the 19 States and the territory of Guam that used this test. There were nine States and the territory of Guam that used single decisionmaker as a stand-alone test. The remaining 10 States used single decisionmaker as part of a separate test that we refer to as the ''disability prototype.'' 64 FR 47218.

One feature of the prototype test eliminates the reconsideration level of our administrative review process. We are continuing to make decisions in these 10 States by maintaining the elimination of the reconsideration level, but as noted above, as of October 1, 2018, consistent with section 832 of the BBA, we have been making determinations by using medical consultants in those States with the prototype tests.

We will begin phasing out the prototype test in January 2019 in the following five States: New Hampshire; New York; Louisiana; Colorado; and in the part of California [2] where the prototype test is currently being conducted. This means that for the residents in these locations who apply for Social Security Disability Insurance Benefits or Supplemental Security Income, or both, and who receive an initial denial determination on or after January 1, 2019, the first step of the appeals process will be to request a reconsideration of that determination. If we deny an individual at the reconsideration step, they may then seek further review of their claim by requesting a hearing before an administrative law judge.

We will eliminate the prototype test in the remaining five States (Pennsylvania; Alabama; Michigan; Missouri; and Alaska) by June 26, 2020, at which time the test will end. With the end of the prototype test, we will return to a national, unified disability process that affords all disability claimants the same appeal rights in all States.

Nancy A. Berryhill,

Acting Commissioner of Social Security.

[FR Doc. 2018–26803 Filed 12–11–18; 8:45 am]

BILLING CODE 4191–02–P

[1] Public Law 114–74, 129 Stat. 584, 613.

[2] California only includes the Los Angeles North and Los Angeles West branches.

DEPARTMENT OF STATE

[Public Notice 10628]

30-Day Notice of Proposed Information Collection: Department of State Acquisition Regulation (DOSAR)

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to January 11, 2019.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the

information collection title, and the OMB control number in the subject line of your message.

• *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Ms. Colleen Kosar, Office of the Procurement Executive, 2201 C Street NW, Suite 1060, State Annex Number 15, Washington DC 20522–0602; who may be reached on (703) 516–1685 or at *kosarcm@state.gov.*

SUPPLEMENTARY INFORMATION:

• *Title of Information Collection:* Department of State Acquisition Regulation (DOSAR).

• *OMB Control Number:* 1405–0050.

• *Type of Request:* Revision of a Currently Approved Collection.

• *Originating Office:* Bureau of Administration, Office of the Procurement Executive (A/OPE).

• *Form Number:* No Form.

• *Respondents:* Any business, other for-profit, individual, not-for-profit, or household.

• *Estimated Number of Respondents:* 261.

• *Estimated Number of Responses:* 831.

• *Average Time per Response:* 4 hours.

• *Total Estimated Burden Time:* 3,370 hours.

• *Frequency:* On occasion.

• *Obligation to Respond:* Required.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

This information collection covers pre-award and post-award requirements of the DOSAR. During the pre-award phase, information is collected to determine which proposals offer the best value to the U.S. Government. Post-award actions include monitoring the contractor's performance; issuing modifications to the contract; dealing with unsatisfactory performance; and closing out the contract upon its completion. This program collects information pursuant to the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 302), the Omnibus Diplomatic Security and Antiterrorism Act (22 U.S.C. 4852), and the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864).

Methodology

Information is collected from prospective offerors to evaluate their proposals. The responses provided by the public are part of the offeror's proposals in response to Department solicitations. This information may be submitted electronically (through fax or email), or may require a paper submission, depending upon complexity. After contract award, contractors are required to submit information, on an as-needed basis, and related to the occurrence of specific circumstances.

Cathy J. Read,

Procurement Executive, Bureau of Administration, Department of State.

[FR Doc. 2018–26882 Filed 12–11–18; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2018–0045]

Agency Information Collection Activities: Notice of Request for Reinstatement of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by February 11, 2019.

ADDRESSES: You may submit comments identified by DOT Docket ID 2010–0050 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.*

Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Morton 602–382–8976, *Kelly.Morton@dot.gov*; Office of Safety, Federal Highway Administration, Department of Transportation, New Jersey Avenue SE, Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Drug Offender's Driver's License Suspension Certification

OMB Control #: 2125–0579.

Background: States are legally required to enact and enforce laws that revoke or suspend the drivers licenses of any individual convicted of a drug offense and to make annual certifications to the FHWA on their actions. The Department of Transportation's implementing regulations (23 CFR part 192) of 23 U.S.C. 159 require annual certifications by the Governors. In this regard, the State must submit by January 1 of each year either a written certification, signed by the Governor, stating that the State is in compliance with 23 U.S.C. 159; or a written certification stating that the Governor is opposed to the enactment or enforcement, and that the State legislature has adopted a resolution expressing its opposition to 23 U.S.C. 159.

Beginning in Fiscal Year 2012, States' failure to comply by October 1 of each fiscal year resulted in a withholding penalty of 8 percent from States' apportionments for the fiscal year. Any Funds withheld from a State under 23 U.S.C. 159 shall not be available for apportionment to that State.

Respondents: 50 States and the District of Columbia and Puerto Rico.

Estimated Annual Burden Hours: Annual average of 5 hours for each

respondent; 260 total annual burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: December 6, 2018.

Michael Howell,

Information Collection Officer.

[FR Doc. 2018–26874 Filed 12–11–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple IRS Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests 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. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before January 11, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. Title: Return of U.S. Persons With Respect to Certain Foreign Partnerships.

OMB Control Number: 1545–1668.

Type of Review: Revision of a currently approved collection.

Description: The Taxpayer Relief Act of 1997 significantly modified the information reporting requirements with respect to foreign partnerships. The Act made the following three changes (1) expanded section 6038B to require U.S. persons transferring property to foreign partnerships in certain transactions to report those transfers; (2) expanded section 6038 to require certain U.S. Partners of controlled foreign partnerships to report information about the partnerships; and (3) modified the reporting required under section 6046A with respect to acquisitions and dispositions of foreign partnership interests.

Form 8838–P is used to extend the statute of limitations for U.S. persons who transfers appreciated property to partnerships with foreign partners related to the transferor. The form is filed when the transferor makes a gain recognition agreement. This agreement allows the transferor to defer the payment of tax on the transfer. The IRS uses Form 8838–P so that it may assess tax against the transferor after the expiration of the original statute of limitations.

Form: 8865 Schedules G, H, K–1, O & P; 8838–P.

Affected Public: Businesses or other for-profits, Individuals and households.

Estimated Number of Respondents: 34,450.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 34,450.

Estimated Time per Response: 8.18 hours.

Estimated Total Annual Burden Hours: 281,974.

2. Title: Employer Credit for Paid Family and Medical Leave.

OMB Control Number: 1545–XXXX.

Type of Review: New collection.

Description: The law establishes a credit for employers that provide paid family and medical leave to employees. This is a general business credit employers may claim, based on wages paid to qualifying employees while they are on family and medical leave, subject to certain conditions. The credit is for wages paid beginning after December 31, 2017 and it is not available for wages paid beginning after December 31, 2019, Supporting documentation is attached.

Form: 8994.

Affected Public: Individuals and households.

Estimated Number of Respondents: 660,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 660,000.

Estimated Time per Response: 1.94 hours.

Estimated Total Annual Burden Hours: 1,280,400.

3. Title: Form 461—Limitation on Business Losses.

OMB Control Number: 1545–XXXX.

Type of Review: New collection.

Description: Form 461 and its separate instructions calculates the limitation on business losses, and the excess business losses that will be treated as net operating loss (NOL) carried forward to subsequent taxable years. In the case of a partnership or S corporation, the provision applies at the partner or shareholder level. This form will used by noncorporate taxpayers and will attached to a tax return (F1040, 1040NR, 1041, 1041–QFT, 1041–N, or 990–T).

Form: 461.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 2,909,026.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 2,909,026.

Estimated Time per Response: 23 minutes.

Estimated Total Annual Burden Hours: 1,105,430.

4. Title: Information Reporting for Certain Life Insurance Contract Transactions.

OMB Control Number: 1545–XXXX.

Type of Review: New collection.

Description: The collection covers the new information reporting requirements for certain life insurance contracts under new IRC 6050Y, which was added by the Tax Cuts and Jobs Act (TCJA). The new reporting requirements apply to reportable death benefits paid and reportable policy sales made after Dec. 31, 2017. On April 26, 2018, the Internal Revenue Service provided transitional guidance delaying any reporting under IRC 6050Y until final regulations are issued. The transitional guidance provides taxpayers additional time to satisfy any reporting obligations arising prior to publication of final regulations.

Form: 1099–SB, 1099–LS.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 6,000.

Frequency of Response: Annually, On occasion.

Estimated Total Number of Annual Responses: 6,000.

Estimated Time per Response: 7 minutes.

Estimated Total Annual Burden Hours: 720.

5. Title: Transitional Guidance Under Sections 162(f) and 6050X With Respect to Certain Fines, Penalties, and Other Amounts.

OMB Control Number: 1545–XXXX.

Type of Review: New collection.

Description: The collection covers the new information reporting requirements under IRC 162(f) and new 6050X, which was added by the Tax Cuts and Jobs Act (TCJA).

Generally, no deduction is allowed for any amount paid to, or at the direction of, a government or specified nongovernmental entity for the violation of any law. The general rule does not apply to the following exceptions:

- Amounts that constitute restitution (including remediation of property);
- Amounts paid to come into compliance with the law;
- Amounts paid or incurred as the result of certain court orders in which no government or specified nongovernmental agency is a party; and
- Amounts paid or incurred for taxes due.

To be deductible under an exception, the Taxpayer must establish that an amount required to be paid is for restitution, remediation or to come into compliance with the law, AND the amount must be specifically identified in the settlement agreement or court order as restitution, remediation or to come into compliance with the law.

Any amount paid or incurred as reimbursement to the Government for the costs of any investigation or litigation are not deductible under one of the exceptions (under prior law, these amounts were often considered compensatory and deductible).

The 2017 Tax Cuts and Jobs Act also enacted IRC section 6050X, which requires government agencies or specified nongovernmental regulatory entities to file an information return which identifies:

1. The amount required to be paid as a result of the suit or agreement to which IRC section 162(f)(1) applies;

2. Any amount required to be paid as a result of the suit or agreement that constitutes restitution or remediation of property; and

3. Any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law that was violated or involved in the investigation or inquiry.

This reporting requirement will not be required with respect to amounts paid or incurred under a binding court order or agreement entered into before the date provided in the future proposed regulations, which will be no earlier than January 1, 2019.

Notice 2018–23 provides information for section 6050X and transitional guidance under IRC § 162(f).

Form: 1098–F.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 200.

Frequency of Response: Annually, On occasion.

Estimated Total Number of Annual Responses: 200.

Estimated Time per Response: 7 minutes.

Estimated Total Annual Burden Hours: 24.

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

Dated: December 6, 2018.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2018–26841 Filed 12–11–18; 8:45 am]

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 660

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

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 180625576–8999–02]

RIN 0648–BH93

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

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

ACTION: Final rule.

SUMMARY: This final rule establishes the 2019–2020 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Pacific Coast Groundfish Fishery Management Plan. This final rule revises the management measures that are intended to keep the total catch of each groundfish stock or stock complex within the harvest specifications. These measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

DATES: This final rule is effective January 1, 2019.

ADDRESSES: This rule is accessible via the Office of the Federal Register website at *https://www.federalregister.gov/*. Background information and documents including an integrated analysis for this action (Analysis), which addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the National Environmental Policy Act, Presidential Executive Order 12866, and the Regulatory Flexibility Act are available at the NMFS West Coast Region website at *http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html* and at the Pacific Fishery Management Council's website at *http://www.pcouncil.org*. The final 2018 Stock Assessment and Fishery Evaluation (SAFE) report for Pacific Coast groundfish, as well as the SAFE reports for previous years, are available from the Pacific Fishery Management Council's website at *http://www.pcouncil.org*. Other documents associated with this rule are available at the NMFS West Coast Region website at *http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html*.

FOR FURTHER INFORMATION CONTACT: Keeley Kent, phone: 206–526–4655, fax: 206–526–6736, or email: *Keeley.Kent@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Executive Summary

This final rule implements the 2019–2020 harvest specifications and management measures for groundfish stocks taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. NMFS published the proposed rule to implement the 2019–2020 harvest specifications and management measures on September 19, 2018 (83 FR 47416). The comment period on the proposed rule ended on October 19, 2018. NMFS received eight comments on the proposed rule. A summary of the comment and NMFS's responses is provided in the Comments and Responses section of this preamble.

Purpose of the Regulatory Action

The purpose of this final rule is to conserve and manage Pacific Coast groundfish fishery resources to prevent overfishing, to rebuild overfished stocks, achieve optimum yield (OY), and ensure that management measures are based on the best scientific information available. This action includes harvest specifications for 2019–2020 consistent with existing or revised default harvest control rules for all stocks, and sets management measures designed to keep catch within the established limits. The harvest specifications are set consistent with the OY harvest management framework described in Chapter 4 of the Pacific Coast Groundfish Fishery Management Plan (PCGFMP).

Major Provisions

This final rule contains two types of major provisions. The first are the harvest specifications (overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs)), and the second are management measures designed to keep fishing mortality within the ACLs. The Council developed the harvest specifications (OFLs, ABCs, and ACLs) in this rule through a rigorous scientific review and decision making process, which is described in the proposed rule (83 FR 47416, September 19, 2018).

This final rule includes harvest specifications for the two overfished stocks managed under the PCGFMP, yelloweye rockfish and cowcod. For the 2019–2020 biennium, NMFS is implementing changes to the yelloweye rockfish rebuilding plan due to its improved stock rebuilding outlook and changes to the needs of fishing communities. This final rule modifies the harvest control rule for this stock and establishes harvest specifications and management measures consistent with those revisions. The other overfished stock, cowcod, continues to have a positive rebuilding outlook and no changes to its rebuilding plan are included in this rule. Since the 2017–2018 biennium, three stocks have been declared rebuilt: Darkblotched rockfish, bocaccio rockfish, and Pacific ocean perch (POP). The harvest control rules for these stocks revert back to those established prior to the stock being declared overfished.

To keep mortality of the stocks managed under the PCGFMP within the ACLs, the Council also recommended management measures. Generally speaking, management measures are intended to rebuild overfished stocks, prevent catch from exceeding the ACLs, and allow for the harvest of healthy stocks. Management measures include time and area restrictions, gear restrictions, trip or bag limits, size limits, and other management tools. Management measures may vary by fishing sector because different fishing sectors require different types of management to control catch. Most of the management measures the Council recommended for 2019–2020 were slight variations to existing management measures, and do not represent a change from current management practices. Additionally, the Council recommended several new management measures, including: Establishment of salmon bycatch mitigation measures, modifications to depth restrictions in the Western Cowcod Conservation Area (CCA), modification of discard mortality rates for Individual Fishing Quota (IFQ) for lingcod and sablefish, removal of the Shorebased IFQ Program daily vessel limits, removal of the automatic authority on at-sea set-asides, continuation of the IFQ adaptive management pass-through, and modification of the retention ratios for incidentally caught lingcod in the salmon troll fishery.

I. Harvest Specifications

This final rule sets the 2019–2020 harvest specifications and management measures for all of the 128 groundfish stocks that have ACLs or ACL

contributions to stock complexes managed under the PCGFMP, except for Pacific whiting. Pacific whiting harvest specifications are established annually through a separate bilateral process with Canada. The OFLs, ABCs, and ACLs for each stock or stock complex for 2019 are in Table 1 and for 2020 are in Table 2. The harvest specifications set through this rule are for non-overfished and overfished stocks. The SAFE document posted on the Council's website at *http://www.pcouncil.org/groundfish/safe-documents/* contains a detailed description of each non-overfished and overfished stock and its status and management. The proposed rules for the 2011–12 (75 FR 67810, November 3, 2010) and 2013–14 (77 FR 67974, November 14, 2012) harvest specifications and management measures contain extensive discussions on the management approach used for overfished stocks, which are not repeated here. A summary of how these harvest specifications were developed, including a description of off-the deductions for tribal, research, incidental, and experimental fisheries, was provided in the proposed rule and is not repeated here. Additional information on the development of these harvest specifications is also provided in the Analysis and its supporting appendices.

TABLE 1—2019 OFLS, ABCS, ACLS, AND HGS FOR ALL GROUNDFISH STOCKS AND STOCK COMPLEXES IN METRIC TONS

Species	Area	OFL	ABC	ACL	Fishery HG
COWCOD	S of 40°10′ N lat	74	67	10	8.
COWCOD	(Conception)	61	56	NA	NA.
COWCOD	(Monterey)	13	11	NA	NA.
YELLOWEYE ROCKFISH	Coastwide	82	74	48	42.
Arrowtooth Flounder	Coastwide	18,696	15,574	15,574	13,479.
Big skate	Coastwide	541	494	494	452.
Black rockfish	California (S of 42° N lat.)	344	329	329	328.
Black rockfish/blue rockfish/deacon rockfish.	Oregon (Between 46°16′ N lat. and 42° N lat.).	677	617	617	616.
Black rockfish	Washington (N of 46°16′ N lat.)	312	298	298	280.
Bocaccio	S of 40°10′ N lat	2,194	2,097	2,097	2,051.
Cabezon	California (S of 42° N lat.)	154	147	147	147.
Cabezon/kelp greenling	Oregon (Between 46°16′ N lat. and 42° N lat.).	230	218	218	218.
Cabezon/kelp greenling	Washington (N of 46°16′ N lat.)	13	11	11	11.
California scorpionfish	S of 34°27′ N lat	337	313	313	311.
Canary rockfish	Coastwide	1,517	1,450	1,450	1,383.
Chilipepper rockfish	S of 40°10′ N lat	2,652	2,536	2,536	2,451.
Darkblotched rockfish	Coastwide	800	765	765	731.
Dover sole	Coastwide	91,102	87,094	50,000	48,404.
English sole	Coastwide	11,052	10,090	10,090	9,874.
Lingcod	N of 40°10′ N lat	5,110	4,885	4,871	4,593.
Lingcod	S of 40°10′ N lat	1,143	1,093	1,039	1,028.
Longnose skate	Coastwide	2,499	2,389	2,000	1,852.
Longspine thornyhead	N of 34°27′ N lat	4,112	3,425	2,603	2,553.
Longspine thornyhead	S of 34°27′ N lat			822	821.
Pacific cod	Coastwide	3,200	2,221	1,600	1,094.
Pacific whiting	Coastwide	TBD	TBD	TBD	TBD.
Pacific ocean perch	N of 40°10′ N lat	4,753	4,340	4,340	4,318.
Petrale sole	Coastwide	3,042	2,908	2,908	2,587
Sablefish	N of 36° N lat	8,489	7,750	5,606	See Table 1c.
Sablefish	S of 36° N lat			1,990	1,986.
Shortbelly rockfish	Coastwide	6,950	5,789	500	483.
Shortspine thornyhead	N of 34°27′ N lat	3,089	2,573	1,683	1,618.
Shortspine thornyhead	S of 34°27′ N lat			890	889.
Spiny dogfish	Coastwide	2,486	2,071	2,071	1,738.
Splitnose rockfish	S of 40°10′ N lat	1,831	1,750	1,750	1,733.
Starry flounder	Coastwide	652	452	452	433.
Widow rockfish	Coastwide	12,375	11,831	11,831	11,583.
Yellowtail rockfish	N of 40°10′ N lat	6,568	6,279	6,279	5,234.
Nearshore rockfish	N of 40°10′ N lat	91	81	81	79.
Shelf rockfish	N of 40°10′ N lat	2,309	2,054	2,054	1,977.
Slope rockfish	N of 40°10′ N lat	1,887	1,746	1,746	1,665.
Nearshore rockfish	S of 40°10′ N lat	1,300	1,145	1,142	1,138.
Shelf rockfish	S of 40°10′ N lat	1,919	1,625	1,625	1,546.
Slope rockfish	S of 40°10′ N lat	856	744	744	724.
Other flatfish	Coastwide	8,750	6,498	6,498	6,249.
Other fish	Coastwide	286	239	239	230.

TABLE 2—2020 OFLS, ABCS, ACLS, AND HGS FOR ALL GROUNDFISH STOCKS AND STOCK COMPLEXES IN METRIC TONS

Species	Area	OFL	ABC	ACL	Fishery HG
COWCOD	S of 40°10′ N lat	76	68	10	8.
COWCOD	(Conception)	62	57	NA	NA.
COWCOD	(Monterey)	13	11	NA	NA.
YELLOWEYE ROCKFISH	Coastwide	84	77	49	43.

TABLE 2—2020 OFLS, ABCS, ACLS, AND HGS FOR ALL GROUNDFISH STOCKS AND STOCK COMPLEXES IN METRIC TONS—Continued

Species	Area	OFL	ABC	ACL	Fishery HG
Arrowtooth Flounder	Coastwide	15,306	12,750	12,750	10,655.
Big skate	Coastwide	541	494	494	452.
Black rockfish	California (S of 42° N lat.)	341	326	326	325.
Black rockfish/blue rockfish/deacon rockfish.	Oregon (Between 46°16′ N lat. and 42° N lat.).	670	611	611	609.
Black rockfish	Washington (N of 46°16′ N lat.)	311	297	297	279.
Bocaccio	S of 40°10′ N lat	2,104	2,011	2,011	1,965.
Cabezon	California (S of 42° N lat.)	153	146	146	146.
Cabezon/kelp greenling	Oregon (Between 46° 16′ N lat. and 42° N lat.).	216	204	204	204.
Cabezon/kelp greenling	Washington (N of 46°16′ N lat.)	12	10	10	10.
California scorpionfish	S of 34°27′ N lat	331	307	307	305.
Canary rockfish	Coastwide	1,431	1,368	1,368	1,301.
Chilipepper rockfish	S of 40°10′ N lat	2,521	2,410	2,410	2,325.
Darkblotched rockfish	Coastwide	853	815	815	781.
Dover sole	Coastwide	92,048	87,998	50,000	48,404.
English sole	Coastwide	11,101	10,135	10,135	9,919.
Lingcod	N of 40°10′ N lat	4,768	4,558	4,541	4,263.
Lingcod	S of 40°10′ N lat	977	934	869	858.
Longnose skate	Coastwide	2,474	2,365	2,000	1,852.
Longspine thornyhead	N of 34°27′ N lat	3,901	3,250	2,470	2,420.
Longspine thornyhead	S of 34°27′ N lat			780	779.
Pacific cod	Coastwide	3,200	2,221	1,600	1,094.
Pacific whiting	Coastwide	y/	y/	y/	y/.
Pacific ocean perch	N of 40°10′ N lat	4,632	4,229	4,229	4,207.
Petrale sole	Coastwide	2,976	2,845	2,845	2,524.
Sablefish	N of 36° N lat	8,648	7,896	5,723	See Table 2c.
Sablefish	S of 36° N lat			2,032	2,028.
Shortbelly rockfish	Coastwide	6,950	5,789	500	483.
Shortspine thornyhead	N of 34°27′ N lat	3,063	2,551	1,669	1,604.
Shortspine thornyhead	S of 34°27′ N lat			883	882.
Spiny dogfish	Coastwide	2,472	2,059	2,059	1,726.
Splitnose rockfish	S of 40°10′ N lat	1,810	1,731	1,731	1,714.
Starry flounder	Coastwide	652	452	452	433.
Widow rockfish	Coastwide	11,714	11,199	11,199	10,951.
Yellowtail rockfish	N of 40°10′ N lat	6,261	5,986	5,986	4,941.
Nearshore rockfish	N of 40°10′ N lat	92	82	82	79.
Shelf rockfish	N of 40°10′ N lat	2,302	2,048	2,048	1,971.
Slope rockfish	N of 40°10′ N lat	1,873	1,732	1,732	1,651.
Nearshore rockfish	S of 40°10′ N lat	1,322	1,165	1,163	1,159.
Shelf rockfish	S of 40°10′ N lat	1,919	1,626	1,625	1,546.
Slope rockfish	S of 40°10′ N lat	855	743	743	723.
Other flatfish	Coastwide	8,202	6,041	6,041	5,792.
Other fish	Coastwide	286	239	239	230.

The most significant changes to harvest specifications from 2018 to 2019 are for stocks that were rebuilt (bocaccio, darkblotched rockfish, and Pacific ocean perch), and for stocks that have a more optimistic stock outlook in a recent stock assessment (lingcod north of 40°10′ N. lat., California scorpionfish south of 34°27′ N. lat., and yelloweye rockfish [an overfished stock]).

Yelloweye Rockfish (Sebastes ruberrimus)

This final rule includes changes to the rebuilding plan for yelloweye rockfish. The Northwest Fisheries Science Center (NWFSC) conducted a new stock assessment for yelloweye rockfish in 2017, and the SSC conducted a rebuilding analysis using the updated assessment. This rule modifies the spawning potential ratio (SPR) harvest rate from 76 percent to 65 percent, and modifies the median time to rebuild (T_{TARGET}) from 2074 to 2029. This improvement in stock status outlook is due to several factors, including: Lower than expected catches of yelloweye rockfish in recent years; a more optimistic value on stock recruit steepness, which corresponds to a more productive stock; and strong year classes entering the spawning population in recent years.

This change in the rebuilding plan allows an ACL for yelloweye rockfish of 48 mt in 2019 and 49 mt in 2020. Within the ACL, for 2019, the Council recommended an HG of 42.1 mt, of which 3.4 mt is the trawl HG and 38.6 mt is the nontrawl HG. For 2020, the Council recommended an HG of 42.1 mt, of which 3.4 is the trawl HG and 39.5 is the nontrawl HG. Additionally, the Council recommended and NMFS is establishing Annual Catch Targets (ACTs) within the nontrawl allocation HG as part of this final rule. The nontrawl sector includes the limited entry fixed gear and open access fixed gear fisheries as well as the recreational fisheries for Washington, Oregon, and California. The nearshore fisheries occur off of Oregon and California and are subject to both Federal and state HGs as well as other state-specific management measures. The non-nearshore fisheries include the limited entry and Federal open access fixed gear fleets. Tables 3 and 4 outline the harvest specifications for 2019 and 2020 for yelloweye rockfish.

TABLE 3—2019 HARVEST SPECIFICATIONS FOR YELLOWEYE ROCKFISH

	OFL (mt)	ABC (mt)	ACL (mt)	HG (mt)	ACT (mt)
All sectors	82	74	48	42	
Nontrawl				38.6	
Non-Nearshore				2.0	1.6
Nearshore				6.0	4.7
Washington Recreational				10.0	7.8
Oregon Recreational				8.9	7.0
California Recreational				11.6	9.1
Trawl				3.4	

TABLE 4—2020 HARVEST SPECIFICATIONS FOR YELLOWEYE ROCKFISH

	OFL (mt)	ABC (mt)	ACL (mt)	HG (mt)	ACT (mt)
All sectors	84	77	49	43	
Nontrawl				39.5	
Non-Nearshore				2.1	1.7
Nearshore				6.2	4.9
Washington Recreational				10.2	8.1
Oregon Recreational				9.1	7.2
California Recreational				11.9	9.4
Trawl				3.4	

The Analysis demonstrates how the changes to the rebuilding plan selects a target time for rebuilding (T_{TARGET}) that is ''as short as possible,'' while giving consideration to ''the status and biology of the overfished species and the needs of the fishing communities,'' consistent with Section 303(e)(4) of the Magnuson-Stevens Act (see Appendix B of the Analysis). The Council indicated a new default harvest control rule may more appropriately account for the needs of West Coast communities by providing greater opportunity in both commercial and recreational groundfish sectors and improving income stability for dependent communities. The proposed rule (83 FR 47416, September 19, 2018) includes a summary of this analysis.

II. Management Measures

This section describes biennial fishery HGs and set-asides used to further allocate the ACLs to the various components on the fishery, routine management measures to control fishing, and new management measures adopted for 2019–2020. Routine management measures for the commercial fishery modify fishing behavior during the fishing year to ensure that catch is constrained below the ACL, and include trip and cumulative landing limits, time/area closures, size limits, and gear restrictions. Routine management measures for the recreational fisheries include bag limits, size limits, gear restrictions, fish dressing requirements, and time/area closures. New management measures adopted for the 2019–2020 biennial cycle would work in combination with current management measures to control fishing effort/activity.

Biennial Fishery Allocations

The Council recommends two-year trawl and nontrawl allocations during the biennial specifications process for all stocks without long-term allocations or stocks where the long-term allocation is suspended because the stock is declared overfished. For all stocks, except sablefish north of 36° N lat., the Council recommends allocations for the trawl and nontrawl sectors based on the fishery HG. Additionally, some stocks are further portioned out to the various sectors within the trawl and nontrawl groupings. Table 5 shows the allocations of the fishery HG for 2019 for stocks that the Council biennially allocates. Table 6 shows the allocations of the fishery HG for 2020 for stocks that the Council biennially allocates. Additionally, table 7 shows the HGs for select stocks within stock complexes.

TABLE 5—2019 BIENNIAL ALLOCATIONS FOR SELECT STOCKS

[In mt]

	Big skate	Bocaccio south of 40°10′ N	Canary rockfish	Cowcod south of 40°10′ N	Longnose skate	Minor shelf rockfish N of 40°10′ N	Minor shelf rockfish S of 40°10′ N
Trawl	429.5	800.7	999.6	3.8	1,666.5	1,190.2	188.6
SB IFQ			953.6				
At-sea			46.0				
C/P			16.0				
M			30.0				
Nontrawl	22.6	1,250.2	383.3	2.2	185.2	786.9	1,357.3
Nearshore		4.8	43.8				
Non-nearshore		382.0	94.3				
WA Rec			47.1				
OR Rec			70.7				
CA Rec		863.4	127.3				

TABLE 6—2020 BIENNIAL ALLOCATIONS FOR SELECT STOCKS

[In mt]

	Big skate	Bocaccio south of 40°10′ N	Canary rockfish	Cowcod south of 40°10′ N	Longnose skate	Minor shelf rockfish N of 40°10′ N	Minor shelf rockfish S of 40°10′ N
Trawl	429.5	767.1	940.3	3.8	1,666.5	1,186.6	188.6
SB IFQ			894.3				
At-sea			46.0				
C/P			16.0				
M			30.0				
Nontrawl	22.6	1,197.8	360.6	2.2	185.2	784.5	1,357.3
Nearshore		4.6	41.2				
Non-nearshore		366.0	88.7				
WA Rec			44.3				
OR Rec			66.5				
CA Rec		827.2	119.7				

TABLE 7—FISHERY HGS FOR STOCKS WITHIN A STOCK COMPLEX

[In mt]

Stock (Complex)	2019	2020
Blackgill rockfish S of 40°10′ N lat. (Minor Slope Rockfish complex)	159.0	159.0
Oregon black rockfish (Oregon black/blue/deacon rockfish complex)	515.8	512.2
Oregon cabezon (Oregon cabezon/kelp greenling complex)	46.8	46.8

Tribal Fisheries

Tribes implement management measures for Tribal fisheries both independently as sovereign governments and cooperatively with the management measures in the Federal regulations. The Tribes may adjust their Tribal fishery management measures inseason to stay within the Tribal harvest targets and estimated impacts to overfished stocks. The only change to Tribal harvest targets and management measures for the 2019–2020 biennium is an increase in the petrale sole harvest target from 220 mt to 290 mt.

Rockfish Conservation Areas

Rockfish Conservation Areas (RCAs) are large area closures intended to reduce the catch of a stock or stock complex by restricting fishing activity at specific depths. The boundaries for RCAs are defined by straight lines connecting a series of latitude and longitude coordinates that approximate depth contours. These sets of coordinates, or lines, are not gear or fishery specific, but can be used in combination to define an area. NMFS then implements fishing restrictions for a specific gear and/or fishery within each defined area.

This rule adjusts the coordinates for the 75 fathom (fm) (137 m), 100 fm (183 m), 125 fm (229 m), and 150 fm (274 m) depth contours off of California to more accurately refine the depth contours. These modifications adjust boundaries for RCAs around Santa Cruz Island, Spanish Canyon, Delgada Canyon, Cordell Bank, Point Ano Nuevo, San Miguel Island, Anacapa Island, Usal Canyon, and Noyo Canyon. Currently, the 75, 100, 125, 150 fm depth contours are in use as RCAs for either the trawl sector, limited entry fixed gear sector, or the open access sector. Table 8 shows the RCAs for 2019 and beyond, until otherwise modified.

TABLE 8—RCA BOUNDARIES BY GEAR TYPE

Sector	Area	RCA in effect
Trawl	North of 45°46′ N lat	100 fm—150 fm.
	45°46′ N lat.—40°10′ N lat	100 fm—modified[a] 200 fm.
	South of 40°10′ N lat	100 fm—150 fm.
	South of 34°27′ N lat. around islands	shoreline—150 fm.
Limited entry fixed gear and open access	North of 46°16′ N lat	shoreline—100 fm.
	46°16′ N lat.—40°10′ N lat	30 fm—100 fm.
	40°10′ N lat.—34°27′ N lat	40 fm—125 fm.
	South of 34°27′ N lat	75 fm—150 fm (also applies around islands).

[a] The ''modified'' fathom lines are modified to exclude certain petrale sole areas from the RCA.

Limited Entry Trawl

Shorebased IFQ Program Allocations

Table 9 shows the yearly allocations to the Shorebased IFQ Program for 2019 and 2020.

TABLE 9—SHOREBASED IFQ PROGRAM ALLOCATIONS FOR 2019 AND 2020

IFQ species	Area	2019 Shorebased trawl allocation (mt)	2020 Shorebased trawl allocation (mt)
Arrowtooth flounder	Coastwide	12,735.1	10,052.3
Bocaccio	South of 40°10′ N lat	800.7	767.1
Canary rockfish	Coastwide	946.9	887.8
Chilipepper	South of 40°10′ N lat	1,838.3	1,743.8
COWCOD	South of 40°10′ N lat	2.2	2.2
Darkblotched rockfish	Coastwide	658.4	703.4
Dover sole	Coastwide	45,979.2	45,979.2
English sole	Coastwide	9,375.1	9,417.9
Lingcod	North of 40°10′ N lat	2,051.9	1,903.4
Lingcod	South of 40°10′ N lat	462.5	386.0
Longspine thornyhead	North of 34°27′ N lat	2,420.0	2,293.6
Minor Shelf Rockfish complex	North of 40°10′ N lat	1,155.2	1,151.6
Minor Shelf Rockfish complex	South of 40°10′ N lat	188.6	188.6
Minor Slope Rockfish complex	North of 40°10′ N lat	1,248.8	1,237.5
Minor Slope Rockfish complex	South of 40°10′ N lat	456.0	455.4
Other Flatfish complex	Coastwide	5,603.7	5,192.4
Pacific cod	Coastwide	1,034.1	1,034.1
Pacific ocean perch	North of 40°10′ N lat	3,697.3	3,602.2
Pacific whiting	Coastwide	TBD	TBD
Petrale sole	Coastwide	2,453.0	2,393.2
Sablefish	North of 36° N lat	2,581.3	2,636.8
Sablefish	South of 36° N lat	834.0	851.7
Shortspine thornyhead	North of 34°27′ N lat	1,511.8	1,498.5
Shortspine thornyhead	South of 34°27′ N lat	50.0	50.0
Splitnose rockfish	South of 40°10′ N lat	1,646.7	1,628.7
Starry flounder	Coastwide	211.6	211.6
Widow rockfish	Coastwide	9,928.8	9,387.1
YELLOWEYE ROCKFISH	Coastwide	3.4	3.4
Yellowtail rockfish	North of 40°10′ N lat	4,305.8	4,048.0

Incidental Trip Limits for Limited Entry Trawl Vessels

Table 10 shows the trip limits for limited entry trawl vessels north of 40°10′ N lat. Changes to trip limits are considered a routine measure under § 660.60(c) and may be implemented or adjusted, if determined necessary, through inseason action.

TABLE 10—LIMITED ENTRY TRAWL LANDING ALLOWANCES (TRIP LIMITS) FOR NON-IFQ SPECIES AND PACIFIC WHITING FOR 2019 AND BEYOND, UNTIL REVISED

	Jan–Feb	Mar–Apr	May–Jun	Jul–Aug	Sep–Oct	Nov–Dec
1. Minor Nearshore Rockfish, Washington Black rockfish & Oregon Black/blue/deacon rockfish.	300 lb/month.					
2. Whiting [a]						
3. midwater trawl	Before the primary whiting season: CLOSED.—During the primary season: mid-water trawl permitted in the RCA. See § 660.131 for season and trip limit details.—After the primary whiting season: CLOSED.					
4. large & small footrope gear	Before the primary whiting season: 20,000 lb/trip.—During the primary season: 10,000 lb/trip.—After the primary whiting season: 10,000 lb/trip.					
5. Oregon Cabezon/Kelp Greenling complex.	50 lb/month.					
6. Cabezon in California	50 lb/month.					
7. Shortbelly rockfish	Unlimited.					
8. Spiny dogfish	60,000 lb/month.					
9. Big skate	5,000 lb/2 months.	25,000 lb/2 months.	30,000 lb/2 months.	35,000 lb/2 months.	10,000 lb/2 months.	5,000 lb/2 months.
10. Longspine thornyhead south of 34°27′ N lat.	24,000 lb/2 months.					

TABLE 10—LIMITED ENTRY TRAWL LANDING ALLOWANCES (TRIP LIMITS) FOR NON-IFQ SPECIES AND PACIFIC WHITING FOR 2019 AND BEYOND, UNTIL REVISED—Continued

	Jan–Feb	Mar–Apr	May–Jun	Jul–Aug	Sep–Oct	Nov–Dec
11. California scorpionfish	Unlimited.					
12. Longnose skate	Unlimited.					
13. Other Fish [b]	Unlimited.					

[a] As specified at § 660.131(d), when fishing in the Eureka Area, no more than 10,000 lb of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during the fishing trip, fished in the fishery management area shoreward of 100 fm contour.
[b] "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

At-Sea Whiting Sector Set Asides

The Council and NMFS use either allocations or set asides to manage the non-whiting groundfish catch in the at-sea sectors (the catcher/processor sector and the mothership sector). Set-asides are managed on an annual basis unless there is a risk of catch exceeding a harvest specification (ACL, ACT, or HG) inseason, unforeseen impact on another fishery, or conservation concerns, in which case inseason action may be taken. Table 11 presents the set-asides for the at-sea sector for 2019 and 2020.

TABLE 11—SET ASIDES FOR AT-SEA SECTORS FOR 2019 AND 2020

Stock or stock complex	Area	2019 Set aside (mt)	2020 Set aside (mt)
COWCOD	S of 40°10 N lat	NA	NA.
YELLOWEYE ROCKFISH	Coastwide	0	0.
Arrowtooth flounder	Coastwide	70	70.
Bocaccio	S of 40°10 N lat	NA	NA.
Canary rockfish [a]	Coastwide	Allocation	Allocation.
Chilipepper	S of 40°10 N lat	NA	NA.
Darkblotched rockfish [b]	Coastwide	37.2	39.6.
Dover sole	Coastwide	5	5.
English sole	Coastwide	5	5.
Lingcod	N of 40°10 N lat	15	15.
Lingcod	S of 40°10 N lat	NA	NA.
Longnose skate	Coastwide	5	5.
Longspine thornyhead	N of 34°27 N lat	5	5.
Longspine thornyhead	S of 34°27 N lat	NA	NA.
Minor Nearshore Rockfish	N of 40°10 N lat	NA	NA.
Minor Nearshore Rockfish	S of 40°10 N lat	NA	NA.
Minor Shelf Rockfish	N of 40°10 N lat	35	35.
Minor Shelf Rockfish	S of 40°10 N lat	NA	NA.
Minor Slope Rockfish	N of 40°10 N lat	100	100.
Minor Slope Rockfish	S of 40°10 N lat	NA	NA.
Other Fish	Coastwide	NA	NA.
Other Flatfish	Coastwide	20	20.
Pacific cod	Coastwide	5	5.
Pacific Halibut [c]	Coastwide	10	10.
Pacific ocean perch [d]	N of 40°10 N lat	404.5	394.
Pacific Whiting	Coastwide	Allocation	Allocation.
Petrale sole	Coastwide	5	5.
Sablefish	N of 36° N lat	50	50.
Sablefish	S of 36° N lat	NA	NA.
Shortspine thornyhead	N of 34°27 N lat	30	30.
Shortspine thornyhead	S of 34°27 N lat	NA	NA.
Starry flounder	Coastwide	5	5.
Widow Rockfish [a]	Coastwide	Allocation	Allocation.
Yellowtail rockfish	N of 40°10 N lat	300	300.

[a] See Table 1.b. to subpart C for the at-sea whiting allocations for these species.
[b] Darkblotched rockfish will be managed as set-asides for the MS and C/P sectors based on pro-rata distribution described at § 660.55(c)(1)(i)(A).
[c] As stated in § 660.55(m), the Pacific halibut set-aside is 10 mt, to accommodate bycatch in the at-sea Pacific whiting fisheries and in the shorebased trawl sector south of 40°10 N lat. (estimated to be approximately 5 mt each).
[d] Pacific ocean perch will be managed as set-asides for the MS and C/P sectors based on pro-rata distribution described at § 660.55(c)(1)(i)(B).

Limited Entry Fixed Gear and Open Access Nontrawl Fishery

Management measures for the limited entry fixed gear (LEFG) and open access (OA) nontrawl fisheries tend to be similar because the majority of participants in both fisheries use hook-and-line gear. Management measures, including area restrictions and trip limits in these nontrawl fisheries, are generally designed to allow harvest of target stocks while keeping catch of

overfished stocks low. For the 2019–2020 biennium, changes to management measures include: Changes to trip limits for sablefish, minor slope rockfish and darkblotched rockfish, canary rockfish, lingcod, shortspine rockfish, and longspine rockfish. Trip limits for the limited entry fixed gear fishery for 2019 and beyond are shown in Table 12. Trip limits for the open access fishery for 2019 and beyond are shown in Table 13.

TABLE 12—LIMITED ENTRY FIXED GEAR LANDING ALLOWANCES (TRIP LIMITS) FOR 2019 AND BEYOND

		Jan–Feb	Mar–Apr	May–Jun	Jul–Aug	Sep–Oct	Nov–Dec
1. Minor Slope Rockfish[a] & Darkblotched rockfish.	North of 40°10′ N lat.	4,000 lb/2 month.					
2.	South of 40°10′ N lat.[b].	40,000 lb/2 months, of which no more than 1,375 lb may be blackgill rockfish			40,000 lb/2 months, of which no more than 1,600 lb may be blackgill rockfish.		
3. Pacific ocean perch.	North of 40°10′ N lat.	1,800 lb/2 months.					
4. Splitnose rockfish.	South of 40°10′ N lat.	40,000 lb/2 months.					
5. Sablefish	North of 36°00′ N lat.	1,300 lb/week, not to exceed 3,900 lb/2 months.					
6.	South of 36°00′ N lat.	2,000 lb/week.					
7. Longspine thornyhead.	Coastwide	10,000 lb/2 months.					
8. Shortspine thornyhead.	North of 34°27′ N lat.	2,500 lb/2 months			2,500 lb/2 months.		
9.	South of 34°27′ N lat.	3,000 lb/2 months.					
10. Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[c].	Coastwide	5,000 lb/month.					
11. Whiting	Coastwide	10,000 lb/trip.					
12. Minor Shelf Rockfish,[d] Shortbelly rockfish, Widow rockfish (including Chilipepper between 40°10′—34°27′ N lat.).	North of 40°10′ N lat.	200 lb/month.					
13.	40°10′ N lat.—34°27′ N lat.[e].	Minor shelf rockfish, shortbelly, widow rockfish, & chilipepper: 2,500 lb/2 months, of which no more than 500 lb may be any species other than chilipepper.					
14.	South of 34°27′ N lat.[e].	4,000 lb/2 months.	CLOSED	4,000 lb/2 months.			
15. Chilipepper rockfish.	South of 34°27′ N lat.	2,000 lb/2 months, this opportunity only available seaward of the non-trawl RCA.					
16. Yellowtail rockfish.	North of 40°10′ N lat.	1,000 lb/month.					
17. Canary rockfish.	North of 34°27′ N lat.	300 lb/2 months.					
18.	South of 34°27′ N lat.	300 lb/2 months.	CLOSED	300 lb/2 months.			
19. Bocaccio	40°10′ N lat.—34°27′ N lat.	1,000 lb/2 months.					
20.	South of 34°27′ N lat.	1,500 lb/2 months.	CLOSED	1,500 lb/2 months.			

TABLE 12—LIMITED ENTRY FIXED GEAR LANDING ALLOWANCES (TRIP LIMITS) FOR 2019 AND BEYOND—Continued

		Jan–Feb	Mar–Apr	May–Jun	Jul–Aug	Sep–Oct	Nov–Dec
21. Minor Nearshore Rockfish, Washington Black rockfish & Oregon Black/blue/deacon rockfish.	North of 42°00′ N lat.	5,000 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[f].					
22.	42°00′ N lat.—40°10′ N lat.	8,500 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish.	7,000 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish.				
23. Shallow nearshore rockfish[g].	South of 40°10′ N lat.	1,200 lb/2 months.	CLOSED	1,200 lb/2 months.			
24. Deeper nearshore rockfish[h].	South of 40°10′ N lat.	1,000 lb/2 months.	CLOSED	1,000 lb/2 months.			
25. Lingcod[i]	North of 42°00′ N lat.	2,000 lb/2 months.					
26.	42°00′ N lat.—40°10′ N lat.	1,400 lb/2 months.					
27.	South of 40°10′ N lat.	200 lb/2 months.	CLOSED	800 lb/2 months.	1,200 lb/2 months		600 lb/month (NOV) & 300 lb/month (DEC).
28. California Scorpionfish.	South of 40°10′ N lat.	1,500 lb/2 months.	CLOSED	1,500 lb/2 months.			
29. Pacific cod	Coastwide	1,000 lb/2 months.					
30. Spiny dogfish	Coastwide	200,000 lb/2 months		150,000 lb/2 months.	100,000 lb/2 months.		
31. Longnose skate.	Coastwide	Unlimited.					
32. Other Fish[j] & Cabezon in California.	Coastwide	Unlimited.					
33. Oregon Cabezon/Kelp Greenling.	Oregon	Unlimited.					
34. Big skate	Coastwide	Unlimited.					
35. Yelloweye rockfish.	Coastwide	CLOSED.					
36. Cowcod	South of 40°10′ N lat.	CLOSED.					
37. Bronzespotted rockfish.	South of 40°10′ N lat.	CLOSED.					

[a] Splitnose rockfish north of 40°10′ N lat. is included in the trip limits for Minor Slope Rockfish.

[b] POP is included in the trip limits for Minor Slope Rockfish south of 40°10′ N lat. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit south of 40°10′ N lat.

[c] "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

[d] Bocaccio, chilipepper and cowcod north of 40°10′ N lat. are included in the trip limits for Minor Shelf Rockfish.

[e] Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish south of 40°10′ N lat. Bronzespotted rockfish have a species specific trip limit.

[f] For black rockfish north of Cape Alava (48°09.50′ N lat.), and between Destruction Is. (47°40′ N lat.) and Leadbetter Pnt. (46°38.17′ N lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

[g] "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*) and include black and yellow rockfish, S. chrysomelas; China rockfish, S. nebulosus; gopher rockfish, S. carnatus; grass rockfish, S. rastrelliger; kelp rockfish, S. atrovirens.

[h] "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*) and include black rockfish, S. melanops; blue rockfish, S. mystinus; brown rockfish, S. auriculatus; calico rockfish, S. dalli; copper rockfish, S. caurinus; deacon rockfish, S. diaconus; olive rockfish, S. serranoides; quillback rockfish, S. maliger; treefish, S. serriceps.

[i] The commercial minimum size limit for lingcod is 22 inches (56 cm) total length north of 42° N lat. and 24 inches (61 cm) total length south of 42° N lat.

[j] "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

TABLE 13—OPEN ACCESS LANDING ALLOWANCES (TRIP LIMITS) FOR 2019 AND BEYOND, UNTIL REVISED

		Jan–Feb	Mar–Apr	May–Jun	Jul–Aug	Sep–Oct	Nov–Dec
1. Minor Slope Rockfish [a] & Darkblotched rockfish.	North of 40°10′ N lat.	500 pounds/month.					
2.	South of 40°10′ N lat.	10,000 lb/2 months, of which no more than 475 lb may be blackgill rockfish			10,000 lb/2 months, of which no more than 550 lb may be blackgill rockfish.		
3. Splitnose rockfish.	South of 40°10′ N lat.	200 lb/month.					
4. Pacific ocean perch.	North of 40°10′ N lat.	100 lb/month.					
6. Sablefish	North of 36°00′ N lat.	300 lb/day or one landing per week up to 1,200 lb, not to exceed 2,400 lb/2 months.					
7.	South of 36°00′ N lat.	300 lb/day, or one landing per week of up to 1,600 lb, not to exceed 3,200 lb/2 months.					
8. Shortpine thornyheads and longspine thornyheads.	North of 40°10′ N lat.	50 lb/month of each.					
9.	40°10′ N lat.—34°27′ N lat.	CLOSED.					
10.	South of 34°27′ N lat.	50 lb/day, no more than 1,000 lb/2 months (both species combined).					
11. Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish [b].	Coastwide	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs.					
12. Whiting	Coastwide	300 lb/month.					
13. Minor Shelf Rockfish, [c] Shortbelly rockfish, & Widow rockfish (and Chilipepper south of 40°10′ N lat.).	North of 40°10′ N lat.	200 lb/month.					
14.	40°10′ N lat.–34°27′ N lat.	400 lb/2 months.	CLOSED	400 lb/2 months.			
15.	South of 34°27′ N lat.	1,500 lb/2 months.		1,500 lb/2 months.			
16. Bocaccio	South of 40°10′ N lat.	500 lb/2 months.	CLOSED	500 lb/2 months.			
17. Yellowtail rockfish.	North of 40°10′ N lat.	500 lb/month.					
18. Canary rockfish.	North of 40°10′ N lat.	300 lb/2 months.					
19.	South of 40°10′ N lat.	300 lb/2 months.	CLOSED	300 lb/2 months.			

TABLE 13—OPEN ACCESS LANDING ALLOWANCES (TRIP LIMITS) FOR 2019 AND BEYOND, UNTIL REVISED—Continued

		Jan–Feb	Mar–Apr	May–Jun	Jul–Aug	Sep–Oct	Nov–Dec
20. Minor Nearshore Rockfish, Washington Black rockfish, Oregon Black/Blue/Deacon rockfish, California black rockfish.	North of 42°00′ N lat.	5,000 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish. [d]					
21.	42°00′ N lat.—40°10′ N lat.	8,500 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish.	7,000 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish.				
22. Shallow nearshore [e].	South of 40°10′ N lat.	1,200 lb/2 months.	CLOSED	1,200 lb/2 months.			
23. Deeper nearshore [f].	South of 40°10′ N lat.	1,000 lb/2 months.	CLOSED	1,000 lb/2 months.			
24. Lingcod [g]	North of 42°00′ N lat.	900 lb/month.					
25.	42°00′ N lat.—40°10′ N lat.	600 lb/month.					
26.	South of 40°10′ N lat.	300 lb/month ...	CLOSED	300 lb/month.			
27. California scorpionfish.	South of 40°10′ N lat.	1,500 lb/2 months.	CLOSED	1,500 lb/2 months.			
28. Pacific cod	Coastwide	1,000 lb/2 months.					
29. Spiny dogfish	North of 40°10′ N lat.	200,000 lb/2 months		150,000 lb/2 months.	100,000 lb/2 months.		
30. Longnose skate.	Coastwide	Unlimited.					
31. Big skate	Coastwide	Unlimited.					
32. Other Fish [h] & Cabezon in California.	Coastwide	Unlimited.					
33. Oregon Cabezon/Kelp Greenling.	North of 40°10′ N lat.	Unlimited.					
34. Yelloweye rockfish.	Coastwide	CLOSED.					
35. Cowcod	South of 40°10′ N lat.	CLOSED.					
36. Bronzespotted rockfish.	South of 40°10′ N lat.	CLOSED.					

[a] Splitnose rockfish is included in the trip limits for Minor Slope Rockfish north of 40°10′ N lat. POP is included in the trip limits for Minor slope rockfish south of 40°10′ N lat. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits.

[b] "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

[c] Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish north of 40°10′ N lat. Yellowtail rockfish is included in the trip limits for Minor Shelf Rockfish south of 40°10′ N lat. Bronzespotted rockfish have a species specific trip limit.

[d] For black rockfish north of Cape Alava (48°09.50′ N lat.), and between Destruction Is. (47°40′ N lat.) and Leadbetter Pnt. (46°38.17′ N lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

[e] "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*) and include black and yellow rockfish, S. chrysomelas; China rockfish, S. nebulosus; gopher rockfish, S. carnatus; grass rockfish, S. rastrelliger; kelp rockfish, S. atrovirens.

[f] "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*) and include black rockfish, S. melanops; blue rockfish, S. mystinus; brown rockfish, S. auriculatus; calico rockfish, S. dalli; copper rockfish, S. caurinus; deacon rockfish, S. diaconus; olive rockfish, S. serranoides; quillback rockfish, S. maliger; treefish, S. serriceps.

[g] The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N lat. and 24 inches (61 cm) total length South of 42° N lat.

[h] "Other fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

Primary Sablefish Tier Limits

Some limited entry fixed gear permits are endorsed to receive annual sablefish quota, or ''tier limits.'' Vessels registered with one, two, or up to three of these permits may participate in the primary sablefish fishery. The tier limits are shown in Table 14.

TABLE 14—SABLEFISH TIER LIMITS FOR 2019 AND 2020

	2019	2020
Tier 1	47,637 lb (21,608 kg)	48,642 lb (22,064 kg).
Tier 2	21,653 lb (9,822 kg)	22,110 lb (10,029 kg).
Tier 3	12,373 lb (5,612 kg)	12,634 lb (5,731 kg).

Recreational Fisheries

This section describes the recreational fisheries management measures for 2019–2020. The Council primarily recommends depth restrictions and groundfish conservation areas (GCAs) to constrain catch within the recreational harvest guidelines for each stock. Most of the changes to recreational management measures are modifications to existing measures.

Washington, Oregon, and California each proposed, and the Council recommended, different combinations of seasons, bag limits, area closures, and size limits for stocks targeted in recreational fisheries. These measures are designed to limit catch of overfished stocks found in the waters adjacent to each state while allowing target fishing opportunities in their particular recreational fisheries. The following sections describe the recreational management measures this final rule implements for each state.

Washington

The state of Washington manages its marine fisheries in four areas: Marine Area 1 extends from the Oregon/Washington border to Leadbetter Point; Marine Area 2 extends from Leadbetter Point to the mouth of the Queets Rivers; Marine Area 3 extends from the Queets River to Cape Alava; and Marine Area 4 extends from Cape Alava to the Sekiu River. Changes from the 2018 fishing season that will be effective for 2019 and beyond include the elimination of the canary rockfish sublimit from all marine areas, and the change to a uniform cabezon sublimit of one fish a day across all marine areas, with no size limit in Marine Area 4. For 2019 and beyond, until otherwise modified, the bag limits for Washington are as follows: 9 groundfish/day, with a sublimit of 7 a day for rockfish, 2 a day for lingcod, and 1 a day for cabezon.

This final rule also aligns the lingcod season in Marine Area 4 with the recreational groundfish season and the lingcod season in Marine Areas 1–3. This adjustment allows for an additional month of fishing in Marine Area 4 compared to 2018. Additionally, this rule allows retention of yellowtail and widow rockfish seaward of 20 fm (37 m) in July and August in Marine Areas 3 and 4.

Oregon

Oregon recreational fisheries in 2019–2020 will operate under the same season structures and bag limits as 2017–2018. As shown in Table 15, this rule expands all-depth fishing from October through March in 2018 to September through May in 2019 and 2020.

TABLE 15—OREGON RECREATIONAL SEASON STRUCTURE AND BAG LIMITS FOR 2019 AND 2020

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Bottomfish Season	Open all depths					<40 fm			Open all depths.			
Marine Bag Limit[a]	Ten (10).											
Lingcod Bag Limit	Three (3).											
Flatfish Bag Limit[b]	Twenty Five (25).											

a/Marine bag limit is 10 fish per day and includes all species other than lingcod, salmon, steelhead, Pacific halibut, flatfish, surfperch, sturgeon, striped bass, pelagic tuna and mackerel species, and bait fish such as herring, anchovy, sardine, and smelt; of which no more than one may be cabezon.
b/Flounders, soles, sanddabs, turbots and halibuts except Pacific halibut.

California

The Council manages recreational fisheries off of California in five separate management areas. The 2019 and 2020 California season structure includes additional time and depth opportunities. Table 16 shows the season structure and depth limits by management area for 2019 and 2020.

TABLE 16—CALIFORNIA RECREATIONAL FISHERY SEASON STRUCTURE AND DEPTH LIMITS BY MANAGEMENT AREA FOR 2019 AND 2020

Management area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Northern	Closed				May 1—Oct 31 < 30 fm						All Depth.	
Mendocino	Closed				May 1—Oct 31 < 20 fm						All Depth.	
San Francisco	Closed			April 1—Dec 31 < 40 fm.								
Central	Closed			April 1—Dec 31 < 50 fm.								
Southern	Closed		Mar 1—Dec 31 < 75 fm.									

Size, bag, and sublimits will remain the same as 2018 for all stocks except for lingcod. To keep within allowable limits, the lingcod bag limit is split into separate limits for north (42° N lat. (California/Oregon border) to 40°10′ N lat. (Northern Management Area)) and south (40°10′ N lat. to the U.S. border with Mexico (Mendocino Management Area, San Francisco Management Area, Central Management Area, and Southern Management Area)). In the north area, the bag limit is 2 lingcod per day; in the south area the bag limit is 1 lingcod per day. Additionally, this rule allows year-round retention of California scorpionfish in the Southern management area.

Salmon Bycatch Mitigation Measures

In December 2017, NMFS completed an Endangered Species Act (ESA) consultation on the continued implementation of the PCGFMP and published a Biological Opinion (see **ADDRESSES**). The components of this Biological Opinion are described in the proposed rule (83 FR 47416, September 19, 2018). This final rule includes four actions related to the mitigation of salmon bycatch in the groundfish fisheries. The first action removes the Ocean Salmon Conservation Zone provision from the regulations because it is an ineffective measure for mitigating salmon bycatch in midwater trawl fisheries.

The second action creates a new bycatch reduction area (BRA) (a depth-based management provision) at the 200-fm (366-m) depth contour. The Council and NMFS monitor the salmon bycatch rates of the fleet inseason. If any midwater trawl sector's bycatch rates exceed those considered in the Biological Opinion, the Council and NMFS can take inseason action to implement the BRA for any of the midwater trawl sector. The groundfish midwater trawl sectors subject to this area closure are the Pacific whiting IFQ fishery, the catcher/processor (C/P) sector, and the mothership sector as well as the non-whiting midwater trawl sector, which primarily targets widow rockfish and yellowtail rockfish. If the Council and NMFS implements the 200-fm (366-m) BRA during a fishing season, vessels would be prohibited from using midwater trawl gear to target either whiting or non-whiting groundfish in waters shoreward of the 200-fm (366-m) depth contour, but would still be allowed to fish in waters seaward of 200-fm (366-m). This action only applies to non-tribal midwater trawl vessels. NMFS expects that the Tribes may implement area management measures to mitigate salmon bycatch, if necessary.

The third action closes the Columbia River Salmon Conservation Zone (CRSCZ) and the Klamath River Salmon Conservation Zone (KRSCZ) to all midwater trawling and to bottom trawling, unless vessels are using a selective flatfish trawl (SFFT). Vessels are currently prohibited from fishing with midwater trawl gear in both areas. This final action maintains the prohibition on bottom trawling in these areas without SFFT, which is currently included under a blanket requirement that groundfish trawl vessels use SFFT gear shoreward of the trawl RCA north of 40°10′ N lat. Both the CRSCZ and KRSCZ are located inside this area. NMFS proposed removing this blanket requirement in a rule published on September 7, 2018 (83 FR 45396), and anticipates publishing a final rule removing the requirement in time for the start of the groundfish fishing year. This final rule reestablishes the SFFT requirement inside the CRSCZ and KRSCZ.

The fourth action creates a provision in the regulations to give NMFS automatic authority to close either or both of the whiting and non-whiting sector fisheries if: (1) Either sector catches its guideline limit and the reserve amount; or (2) either sector reaches its guideline limit when the other sector has already taken the reserve amount. The guideline limit for the whiting sector (including tribal and non-tribal vessels in the mothership, catcher/processor (C/P), and Shoreside whiting fleets) is 11,000 Chinook salmon. The guideline limit for the non-whiting sector (including tribal and non-tribal vessels in the Shoreside trawl, fixed gear, and recreational fleets) is 5,500 Chinook salmon. The reserve amount of Chinook is 3,500 fish. This provision includes only select recreational fisheries that are not accounted for in pre-season salmon modeling. The recreational fisheries not accounted for in pre-season salmon modeling are those occurring outside of the open salmon seasons and the Oregon longleader fishery. Any Chinook salmon bycatch in these fisheries must be attributed to the non-whiting threshold, and these fisheries are subject to potential closures. Chinook salmon bycatch from each fishery accrues to the larger sector (*i.e.,* whiting or non-whiting) level.

As described in the proposed rule, access to the Reserve for additional Chinook salmon bycatch above the sector's guideline limit is not guaranteed. However, if one sector surpasses its guideline limit, it may be allowed to continue fishing, with additional salmon bycatch accounted for within the Reserve. Under such a scenario, if the sector's bycatch reached the Reserve limit, all fisheries within that sector would be subject to an automatic closure. If one sector is allowed to take the Reserve in a given calendar year, then the other sector, upon reaching its guideline limit, would be subject to an automatic closure rather than potentially being able to access the Reserve. Under the regulations for automatic actions at § 660.60(d), a closure notice would be published in the **Federal Register** and be effective immediately for all fisheries within either or both of the whiting or non-whiting sectors. NMFS waives notice and comment under the Administrative Procedure Act if good cause exists. The closure would be effective until the end of the fishing year on December 31. However, the Council and NMFS intend to use other available tools, including area management tools, to help manage salmon bycatch before either sector's catch reaches or exceeds the guideline limits to avoid either sector being closed for the remainder of the fishing year.

Modifications to Depth Restrictions Within the Western CCA

This final rule modifies the allowed fishing depths from 20-fm (37-m) to 40-fm (73-m) for the commercial fixed gear fishery and the recreational fishery inside the Western Cowcod Conservation Area (CCA). This rule also adds new waypoints approximating the 30-fm (55-m) and 40-fm (73-m) depth contours around Santa Barbara Island, San Nicolas Island, Tanner Bank, and Cortes Bank because waypoints approximating these contours do not exist at these depths currently. Fisheries are allowed to operate in areas shallower than the depth limit. This final rule increases the area open to fishing within the Western CCA from 40.4 mi^2 (104.6 km^2) to 150.4 mi^2 (389.5 km^2).

Modification of Lingcod and Sablefish Discard Mortality Rates

This rule implements lower discard mortality rates (DMRs) for lingcod and sablefish used to debit IFQ accounts in the Shorebased IFQ Program to match the rates the Council's Scientific and Statistical Committee (SSC) endorsed for use in stock assessments and that WCGOP uses for year-end groundfish catch accounting. By providing IFQ participants with discard survival credits for lingcod and sablefish, this rule will better meet some of the objectives of the IFQ program, such as increased attainments of and increased

value of IFQ stocks like Dover sole and thornyheads. The DMRs in Table 17 reflect the best scientific information available and will replace the current DMRs of 100 percent.

TABLE 17—DISCARD MORTALITY RATES FOR LINGCOD AND SABLEFISH

Stock	Gear	DMR (%)
Lingcod	Bottom trawl	50
	Fixed gear [a]	7
Sablefish	Bottom trawl	50
	Fixed gear [a]	20

[a] Applies to both pot and hook and line gear.

This rule is expected to result in a minimal increase (about 1 percent) in total coastwide IFQ mortality of sablefish (see Section C.5 of Appendix C of the Analysis). The resulting ''savings'' of trawl sablefish could possibly increase landings of co-occurring, underattained stocks such as Dover sole, shortspine thornyheads, and longspine thornyheads (see Section C.5 of Appendix C of the Analysis).

Removal of IFQ Daily Vessel Limits

Under the Shorebased IFQ Program, vessel limits in vessel accounts restrict the amount of quota pounds (QPs)—the annual currency of quota shares—that any vessel can catch or hold. NMFS calculates annual QP vessel limits, which are a set percentage of the total IFQ sector allocation based on formulas set through Amendment 20 to the PCGFMP. The annual vessel QP limit restricts the amount of used and unused QP in a vessel account during a fishing year.

NMFS also sets daily vessel limits for overfished stocks, which cap the amount of overfished stock QPs any vessel account can have available in their account on a given day. The Council and NMFS established daily vessel limits to prevent a person from acquiring additional QP from others before those QP are needed in order to promote trading of QP of overfished species. As explained in the proposed rule (83 FR 47416, September 19, 2018), the daily vessel limit has been ineffective for keeping catch available for trading, so this rule eliminates the daily limits for all stocks (bocaccio (south), darkblotched rockfish, and Pacific ocean perch, cowcod (south), yelloweye rockfish, and Pacific halibut). Because the daily limits for the remaining overfished stocks and for Pacific halibut have not been constraining, NMFS expects that eliminating this provision will not have a measurable effect on the fishery.

Removal of Automatic Authority for Darkblotched Rockfish and Pacific Ocean Perch (POP) Set-Asides for At-Sea Sector

This rule removes NMFS's automatic authority to close either at-sea sector (C/P and MS sectors) if they exceed their set-aside value for these stocks so that they are managed like all other at-sea set-asides in the PCGFMP. The Analysis demonstrates that the expected risk of the at-sea sectors exceeding their set-aside values for darkblotched rockfish and Pacific ocean perch is low due to low overall attainment in the trawl sector in recent years.

Continuation of Adaptive Management Pass Through

This rule clarifies that NMFS will continue to pass through the QP reserved for the adaptive management program until the Council recommends an alternative use of adaptive management program QP. This is an administrative measure that will not affect fishing opportunity and related catch.

Modification of the Incidental Lingcod Retention Ratio in the Salmon Troll Fishery

This rule modifies the incidental retention ratio for landing lingcod based on the number of Chinook landed in the ocean salmon troll fishery in the area north of 40° 10′ N latitude from a 1 to 15 fish ratio to a 1 to 5 fish ratio. Vessels are also allowed to retain an additional lingcod per trip, up to a trip limit of 10 lingcod. The purpose of the ratio is to allow salmon trollers to retain incidentally caught lingcod, but to discourage lingcod targeting within the nontrawl RCA. Vessels participating in the ocean salmon troll fishery must be equipped with a vessel monitoring system (VMS) to retain incidentally caught groundfish. The Council can adjust the ratio of lingcod retention per Chinook landed through inseason adjustments, if necessary. NMFS does not expect this rule will create an incentive for salmon trollers to target lingcod because these vessels are still restricted to an overall limit of 10 lingcod per trip.

Administrative Actions

NMFS also implements four minor changes to the regulatory text through this final rule to clarify regulatory intent. NMFS will add big skate to the LEFG and OA fixed gear fisheries trip limit tables, Table 2 North and Table 2 South to part 660, subpart E, and Table 3 North and Table 3 South to part 660, subpart F. Big skate is not currently listed in the trip limit table for either the LEFG or OA fisheries, and as such is unlimited.

This rule also removes an obsolete reference to halibut weight provisions off of California at § 660.333(c)(3). California Department of Fish and Wildlife removed this provision from state regulations in 2004.

This rule clarifies the application of Amendment 21–3 set-aside management of darkblotched rockfish and Pacific ocean perch for the at-sea sector for both years of the biennium in Tables 1b, 2b, 1d, and 2d to part 660, subpart C.

Finally, this action removes the WCGOP priority sampling requirement for canary rockfish and bocaccio, formerly overfished stocks that were declared rebuilt, as requested by the Council at its March 2017 meeting. As a result of this change, observers are no longer required to count and weigh these fish on a docked vessel prior to offloading.

III. Response to Comments

NMFS received eight unique comment letters during the public comment period on the proposed rule. Three state agencies submitted comments, including the Washington Department of Fish and Wildlife (WDFW), the California Department of Fish and Wildlife (CDFW), and the Oregon Department of Fish and Wildlife (ODFW). The letters from the state agencies included requests for clarifications on information included in the preamble to the proposed rule and noted several small errors or inconsistencies in the proposed regulations. NMFS has addressed those in separate sections, ''Corrections to the Preamble of the Proposed Rule'' and ''Changes from the Proposed Rule.'' The other five comment letters, one of which was a duplicate, were from private citizens and contained substantive comments. NMFS addresses these comments below.

Comment 1: Three private citizens commented in support of the proposed rule, noting the importance of marine life and the belief that this proposed rule will be beneficial for conserving fish stocks. One commenter stated that the rule protects our oceans for the future and that, without regulations, fishing could have negative effects on the environment.

Response: NMFS agrees, and is implementing the proposed measures with this final rule. The final rule appropriately balances NMFS's duties under the Magnuson-Stevens Act to conserve marine resources while simultaneously creating opportunities to achieve optimum yield.

Comment 2: NMFS should consider tighter control over trawl salmon bycatch because a 20,000 fish Chinook salmon limit rewards the trawl industry at the expense of the dedicated ocean salmon fisheries and does not give adequate protection to ESA-listed salmon species. There should be strict penalties, such as a monetary penalty or revocation of quota, for the groundfish trawl sector and individual vessels that take too much salmon in ''lightning strike'' tows.

Response: NMFS agrees that controlling and limiting salmon impacts from the groundfish fishery is important under both the Magnuson-Stevens Act and the ESA. The analysis in the Biological Opinion predicted that the operation of the groundfish fishery would result in bycatch of no more than 20,000 Chinook. The analysis also concluded this level of take was not likely to jeopardize the continued existence of any of the ESA-listed salmon species covered under the Biological Opinion.

All Chinook salmon catch, including ''lightning strike'' tows, counts towards the 20,000 Chinook bycatch limit. This rule gives NMFS the automatic authority to close the whiting or non-whiting sectors for the remainder of the fishing year if either exceed their salmon bycatch guideline limit and/or the reserve. Closing either sector for the duration of the fishing year is a severe penalty that, as described in the preamble to the proposed rule, would result in significant economic harm to fishing vessels and fishing communities (83 FR 47416, September 19, 2018). Additionally, the reserve is not guaranteed to be available for either sector. Under the terms and conditions of the Biological Opinion, if either sector's bycatch exceeds their guideline limit, and any portion of the reserve is caught in more than three out of every five years, NMFS is required to reinitiate an ESA consultation to reevaluate the impacts of the groundfish fishery on ESA-listed salmon species. The automatic closure requirement and the potential for reinitiation mean that, in effect, the groundfish fisheries are held to lower limits than the 20,000 Chinook salmon total fishery limit.

This rule also includes a new area management tool, the 200-fm (366 m) BRA, for NMFS and the Council to use to address high bycatch in the midwater trawl fleet. The midwater trawl fleet has historically taken the greatest number of Chinook as bycatch; therefore, this new tool will be beneficial in addressing the bycatch issue where it is most prominent.

Finally, term and condition 2.b. of the December 2017 Biological Opinion also recommend that the Council develop additional management measures it deems are necessary for timely inseason management to keep the sectors from exceeding their salmon bycatch guidelines. The Council is scheduled to discuss and potentially develop additional inseason bycatch measures in a separate action outside of this rulemaking. The first discussion of these measures will take place at the November 2018 Council meeting. Additional inseason management tools could provide more flexibility for NMFS and the Council to further reduce salmon bycatch in the groundfish fisheries.

Comment 3: A private citizen commented that the 20,000 Chinook salmon total fishery limit for the operation of the groundfish fishery is more Chinook than is landed in the ocean commercial and recreational salmon fisheries each year. The salmon industry can never rebound if another fishing sector is allowed to take salmon with little penalty.

Response: The commenter suggests the 20,000 Chinook salmon total fishery limit is more Chinook than is landed in the ocean commercial and recreational salmon fisheries each year. This statement is incorrect. While ocean salmon fisheries have been constrained in recent years, coastwide directed salmon fisheries land substantially more Chinook salmon than are as bycatch in the groundfish fisheries each year. The Council's Review of 2017 Ocean Salmon Fisheries (*https://www.pcouncil.org/wp-content/uploads/2018/02/Review_of_2017_Ocean_Salmon_Fisheries_18Final.pdf*) showed coastwide commercial troll and ocean recreational landings of Chinook salmon were 212,606 fish in 2016 and 184,331 fish in 2017. Salmon harvest in ocean salmon fisheries in recent years is approximately 10 times higher than the maximum allowed to be taken in the groundfish fishery. Moreover, actual Chinook salmon bycatch in the groundfish fishery has been substantially below 20,000 salmon. As described in the response to Comment 2 above, NMFS is committed to reducing salmon bycatch in the groundfish fishery in order to limit negative impacts on ESA-listed salmon species. Limiting salmon bycatch in groundfish fisheries is also beneficial to the salmon directed fisheries. NMFS manages both directed and incidental salmon catch levels to control catch of ESA-listed species, and controlling ESA-listed salmon catch in both the directed salmon and groundfish fisheries contributes to recovery efforts.

Comment 4: CDFW supports the proposed cowcod harvest specifications, including an ACT of 6 mt, to provide more flexibility to allow continued and expanded research activities to inform future assessments and stability for fisheries. CDFW also supports the change in depth restrictions for commercial and recreational fisheries within the Cowcod Conservation Area (CCA). CDFW also strongly supports the yelloweye rockfish rebuilding plan changes and higher ACLs to prevent the economic losses experienced by restricted or closed fishing opportunities.

Response: NMFS agrees, and is implementing the measures from the proposed rule in this final action.

Comment 5: CDFW states that Federal regulations at § 660.330(a) need to be updated because they list canary rockfish as a species for which retention is prohibited in open access fishery coastwide. CDFW notes that vessels have been permitted to retain this species since 2017.

Response: The regulations at § 660.330(a) state that only cowcod and yelloweye rockfish are prohibited species coastwide in the open access fishery. Canary rockfish is not listed as a prohibited species in this section, and these regulations are consistent with canary rockfish trip limits.

Comment 6: CDFW recommends that bronzespotted rockfish be listed in § 660.230(a) because vessels are not permitted to retain this species south of 40°10′ N lat.

Response: Section 660.230(a) applies to coastwide limited entry fishery management measures. Listing bronzespotted rockfish as a prohibited species in this paragraph would not be appropriate because vessels are permitted to retain bronzespotted rockfish in open times and areas north of 40°10′ N lat. Bronzespotted rockfish retention prohibitions (closures) are listed in trip limit Table 2 (South), subpart E.

IV. Clarifications and Corrections to the Preamble of the Proposed Rule

NMFS received comment letters from CDFW, WDFW, and ODFW noting inaccuracies in information presented in the preamble to the proposed rule. NMFS offers the following corrections in this final rule. These clarifications and corrections to the information described in the preamble to the proposed rule do not change the substance or intent of the final rule.

In the proposed rule preamble under Section I (A): Specification and

Management Measure Development Process, NMFS erroneously stated that the NWFSC conducted a full stock assessment for blue/deacon rockfish off of Washington in 2017. However, the NWFSC only conducted full stock assessments in 2017 for blue/deacon rockfish stocks off of Oregon and California. Additionally, NMFS stated that the NWFSC conducted eight stock assessment updates, but only listed updates for four stocks. The NWFSC did conduct assessments in 2017 for the four stocks listed in the proposed rule, and the statement should have said that the 2017 assessment updates were only for the four stocks. The following paragraph is the correct information for stock assessments conducted in 2017 for the purposes of determining OFLs, ABCs, and ACLs for the 2019–2020 fishing years.

The Northwest Fisheries Science Center (NWFSC) conducted full stock assessments in 2017 for the following stocks: Blue/deacon rockfish (CA, OR), California scorpionfish, lingcod [north and south], Pacific ocean perch, yellowtail rockfish north of 40°10′ N lat., yelloweye rockfish. Additionally, the NWFSC conducted assessment updates, which incorporate new data into existing models, for four stocks (arrowtooth flounder, blackgill rockfish south of 40°10′ N lat., bocaccio S of 43° N lat., darkblotched rockfish). The NWFSC did not update assessments for the remaining stocks, so harvest specifications for these stocks are based on assessments from previous years. The stock assessment reports are available on the Council website (*https://www.pcouncil.org/*).

Public comments from CDFW and WDFW pointed out that the description in Table 1 of the preamble to the proposed rule of the proposed change for the harvest control rule for lingcod north of 40°10\′ N latitude erroneously stated that in addition to changing the P* value for the California portion of the stock (from 0.40 to 0.45), that the assumptions of ACL attainment were also modified. However, both the harvest control rule in place prior to this final rule and the harvest control rule implemented through this final rule assumed a total catch in 2017 and 2018 of 1,000 mt, and then used an average 2015–2017 exploitation rate to distribute catches among the fisheries.

In Section II: Harvest Specifications, B. Proposed ABCs for 2019 and 2020, WDFW pointed out that NMFS failed to include lingcod south of 40°10' N latitude in the list of category two and three stocks for which the Council selected a P* other than 0.4. As was noted in Table 1 of the preamble in the proposed rule, the Council selected a P* of 0.45 for lingcod south of 40°10′ N latitude.

In Section III: Management Measures, B. Stock Complex Restructuring, WDFW noted in their comment letter that NMFS's description of the proposed stock complex change to create a new stock complex with Washington cabezon and Washington kelp greenling did not accurately capture the most recent make-up of that stock complex. The references to ratfish, skates, codling, and grenadier as being part of the Other Fish complex were inaccurate; those stocks were removed from the complex through Amendment 24 to the FMP (80 FR 12567; March 10, 2015). Prior to this final rule, the following stocks were managed under the Other Fish complex: Kelp greenling (*Hexagrammos decagrammus*), leopard shark (*Trakis semifasciata*), and cabezon (*Scorpaenichthys marmoratus*) in waters off Washington. This final rule removes the portion of the kelp greenling stock off Washington and cabezon off Washington from this complex and places them in a new complex together. A separate action under this final rule removes the portion of kelp greenling off Oregon and groups that with Oregon cabezon to create a new complex. As a result of the changes in this final rule, beginning in the 2019 fishing year, the stocks managed under the Other Fish complex are: Kelp greenling (*Hexagrammos decagrammus*) off California and leopard shark (*Trakis semifasciata*).

In Section B: Stock Complex Composition Restructuring, in response to CDFW and ODFW comments, NMFS clarifies that the new Oregon black/blue/deacon rockfish complex only includes Oregon blue/deacon rockfish north of 42° N latitude, which is the border between Oregon and California, rather than north of 40°10′ N latitude. The species managed in the minor nearshore rockfish complex off Washington and California are not revised with this rule. This clarification is also made in regulations, and is further described in Changes from the Proposed Rule.

CDFW also noted that in Section C, Table 9 of the preamble to the proposed rule incorrectly transposed the labels for 2019 and 2020. The cowcod allocation is 36 percent of the fishery HG for the trawl fishery, or 2.2 mt, and is 64 percent of the fishery HG for the non-trawl fishery is, or 3.8 mt. The allocations in Tables 1b and 1b to subpart C listed the cowcod allocations correctly, and did not result in a change from the proposed rule.

CDFW requested clarifications regarding commercial non-trawl lingcod trip limit changes described in the preamble of the proposed rule. The text and Table 16 in the preamble mistakenly referenced lingcod trip limit reductions for limited entry fixed gear south of 40°10′ N lat. but changes are only for open access fisheries in this area. The limited entry fixed gear trip limits for lingcod south of 40°10′ N lat. shown in Table 16 were incorrectly reduced, but are correct (and unchanged from current limits) in Table 2 (South) to subpart E regulations.

WDFW requested a clarification on information in the preamble to the proposed rule referenced statements in Section C: Biennial Fishery Allocations: Minor Nearshore Rockfish. The paragraph mentions that under state management, vessels must record their landings on their state landing receipts according to the sorting requirements; which include sorting component stocks within the Minor Nearshore Rockfish complex by stock. However, Washington does not have a commercial nearshore fishery. Therefore, the statement should note that only states for which there are commercial nearshore fisheries require that catch of component stocks within the Minor Nearshore Rockfish complex be sorted by stock.

In Section H: Recreational Fisheries, in the Washington section, the proposed rule erroneously states that Marine Area 4 extends to the Sekiu River. However, for federally-managed groundfish stocks, Marine Area 4 only includes coastal waters west of the Bonilla-Tatoosh line at Cape Flattery. NMFS notes the correction. This means that all of the changes to the lingcod season structure that align harvests in Marine Area 4 with Marine Areas 1–3 apply to only the coastal waters west of the Bonilla-Tatoosh line at Cape Flattery, in addition to the correctly described waters in Marine Areas 1–3.

Additionally, in Section H: Recreational Fisheries, in the Washington section, the proposed rule explains that retention of yellowtail and widow rockfish would be allowed in Marine Areas 3 and 4 seaward of 20 fms in July and August. In a comment letter, WDFW requests a clarification to explain that yellowtail and widow rockfish retention will be allowed in these areas, seaward of 20 fms, on days open to recreational salmon fishing during the months of July and August.

Under Section H: Recreational Fisheries, in the California section, CDFW noted the discrepancy between preamble text stating that the proposed rule would allow year-round retention

of California scorpionfish in all management areas. As is correctly set out in the proposed rule at 50 CFR 660.360(c)(3)(v)(A), California scorpionfish will only be open year-round in the Southern Management Area (South of 34°27′ N lat.).

Under Section I: Salmon Bycatch Mitigation Measures of the proposed rule preamble, NMFS incorrectly stated that the Council estimated coho catch in the whiting and non-whiting groundfish fisheries for purposes of the Biological Opinion. While the Council provided an estimate of Chinook bycatch for the proposed action, it did not similarly discuss coho bycatch. In the Biological Opinion, NMFS estimated the bycatch of coho in the whiting and non-whiting sectors based on historical mortalities and assumptions about coho bycatch in newer fisheries, such as the Oregon long-leader fishery. This is because a biological opinion must analyze the proposed action's expected take of listed species. Additionally, for the purposes of clarity requested by CDFW, NMFS notes that under this final rule, tribal bycatch of Chinook and coho in the whiting fishery accrues to the whiting sector bycatch guideline limits for each species and similarly, tribal bycatch of Chinook and coho in the non-whiting fishery accrues to the non-whiting sector's bycatch guideline limits for each species.

The comment letter from WDFW also points out an incorrect statement under Section L: Removal of IFQ Daily Vessel Limits. In this section, NMFS stated that NMFS also sets daily vessel limits for overfished stocks. That statement should have read, NMFS also sets daily vessel limits for overfished stocks and for Pacific halibut. Pacific halibut is not an overfished stock, but is managed as bycatch in the Shorebased IFQ fisheries. NMFS correctly states later in the section that the proposed rule would remove the daily vessel limit for Pacific halibut.

In Section M: Removal of Automatic Authority for Darkblotched Rockfish and Pacific Ocean Perch Set-Asides for At-Sea Sector, WDFW pointed out inconsistencies in the description of how the current set-aside structure was created. The final rule for the 2017–2018 harvest specifications and management measures (82 FR 9634, February 7, 2017) created the buffer originally, and then under Amendment 21–3 to the PCGFMP (83 FR 757, January 8, 2018), the portion of the harvest of each of these stocks for the at-sea sector was changed from an allocation to a set-aside. This final rule removes NMFS's automatic authority to shut down the sector if the set-aside is exceeded.

Under the description of the lingcod retention ratio in the salmon troll fishery in Section O of the proposed rule, NMFS further clarifies in response to WDFW's comment letter that under the revised lingcod retention ratio, salmon troll vessels are still subject to the monthly open access lingcod trip limits. This information is noted in the current regulations in Table 3 (North) to part 660, subpart F, however was not explicitly stated in the preamble to the proposed rule. Under this final rule, any salmon troll vessels seeking to retain incidentally-caught lingcod are subject to the revised ratio (1 lingcod per 5 Chinook per trip, plus 1 lingcod per trip), the vessel trip limit (10 lingcod), and then the current monthly lingcod trip limit noted in the table.

V. Changes From the Proposed Rule

As a result of comments received on the proposed rule, NMFS is making the following changes to the proposed rule. During the process of reviewing the information in the proposed rule, the Council determined that there was a calculation error for the ABC, ACL, HG and subsequent trawl and non-trawl allocations for yellowtail rockfish N of 40°10′ N lat. This error in calculation was the result of the application of an incorrect sigma (σ) value to the OFL for this stock, based on the stock category. Under the Council's procedure for developing harvest specifications, the SSC recommends a σ value. The σ value is based on the scientific uncertainty in the biomass estimates generated from stock assessments. The SSC determined that the Yellowtail rockfish N of 40°10′ N lat. is a category 1 stock and should have the standard sigma value of 0.36 applied. However, in calculating the ABC and ACL for yellowtail rockfish N of 40°10′ N lat, the Council inadvertently used a sigma value of 0.72, which is the sigma value for category 2 stocks. The proposed rule incorrectly stated that the ABC and ACL for yellowtail rockfish N of 40°10′ N lat. for 2019 was 5,997 mt and the HG was 4,952 mt. For 2020, the proposed rule stated the ABC and ACL was 5,716 mt and the HG was 4,671 mt. After making the correction, the resulting ABC and ACL for yellowtail rockfish N of 40°10′ N lat. for 2019 is 6,279 mt, with an HG of 5,234 mt, and for 2020 an ABC and ACL of 5,986 mt, with an HG of 4,941 mt. This results in a 2019 trawl allocation of 4,605.8 mt and 628.1 mt for non-trawl, and an allocation of 4,305.8 mt to the Shorebased IFQ Program. For 2020, the yellowtail rockfish N of 40°10′ N lat. trawl allocation is 4,348.0 mt and the non-trawl allocation is 592.9 mt. The 2020 Shorebased IFQ allocation is 4,048.0 mt. All other allocations of yellowtail rockfish N of 40°10′ N lat. are unchanged from those announced in the proposed rule.

In 50 CFR 660.360(c)(1)(i)(D)(*2*), NMFS erred in not deleting a closure clause from the recreational fishing season for lingcod in Marine Area 2. This closure clause conflicted with another portion of that paragraph that correctly noted that the lingcod season will be open the second Saturday in March through the third Saturday in October under this final rule. This minor change to the regulations implemented through this final rule is an obvious extension of the Council intent for this action.

In response to a comment from ODFW, at 50 CFR 660.11, in the definition of ''groundfish'', this final rule makes clarifications to reflect the new stock complex compositions off Oregon for black/blue/deacon rockfishes. This final rule clarifies that the minor nearshore rockfish complex stock composition off Washington and California are unchanged.

For the Minor Slope Rockfish complex south of 40°10′ N latitude, the 2019 Shorebased trawl allocation was listed incorrectly in 50 CFR 660.140(d)(1)(ii)(D) as 1,049.1 mt. The 2019 Shorebased Trawl allocation is 456.0 mt. This value was listed correctly as the trawl allocation in Table 1b to part 660, subpart C. Because there is no allocation of this species complex to the at-sea sector, the entire trawl allocation is passed through as the Shorebased trawl allocation. This final rule corrects that inconsistency.

In response to CDFW's comments regarding the California recreational fishery, this final rule revises season date changes for the recreational fishery. The updated season dates for the recreational RCA (50 CFR 660.360(c)(3)(i)(A)) and California scorpionfish (§ 660.360(c)(3)(v)(A)) were correct in the proposed rule. However, updated season dates for the other recreational groundfish species groups were mistakenly omitted. This final rule corrects that inconsistency by revising the season dates for the rockfish, cabezon and greenling (RCG) complex (§ 660.360(C)(3)(ii)(A)), lingcod (§ 660.360(C)(3)(iii)(A)), and California scorpionfish (§ 660.360(C)(3)(v)(A)).

Finally, at its November 2018 meeting, the Council recommended changes to the trip limits for the open access fisheries north of 36° N latitude for sablefish, and for the fisheries north and south of 40°10′ N latitude for canary rockfish. Additionally, the Council

recommended changes to the trip limit for the limited entry fixed gear fisheries north of 36° N latitude for sablefish. All changes are to increase trip limits as a result of updated catch data that show lower than projected attainment for these stocks in the most recent fishing season. As a result, trip limits can be raised to allow for full attainment of the HG for both of these stocks in 2019. These changes were made under the inseason action process and are incorporated into this rule for implementation for the 2019 fisheries. Because these trip limits are within the range of what was previously analyzed, they are a minor, routine adjustment to the management measures for the 2019 groundfish fisheries.

VI. Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective on January 1, 2019. This action establishes the final specifications (*i.e.,* annual catch limits) for the Pacific Coast groundfish fisheries for the 2019 fishing year, which begins on January 1, 2019. If this final rule is not effective on January 1, 2019, then the fishing year begins using the catch limits and management measures from 2018.

Because this final rule increases the catch limits for several species for 2019, leaving 2018 harvest specifications in place could unnecessarily delay fishing opportunities until later in the year, potentially reducing the total catch for these species in 2019. Thus, a delay in effectiveness could ultimately cause economic harm to the fishing industry and associated fishing communities or result in harvest levels inconsistent with the best available scientific information. For example, due to the improved status of yelloweye rockfish, the Council recommended significant changes in catch limits and management measures for a number of sector of the fishery, including higher trip limits for the limited entry fleets, reductions in depth limit restrictions for the recreational fisheries, and more quota pounds for the Shorebased IFQ fishery. This measure provides for a year-round opportunity to access underutilized target stocks. In effect, because this final rule implements higher catch limits for many species than are in effect for 2018, this final rule relieves a restriction on the fishing industry.

This final rule is not unexpected or controversial for the public. The groundfish harvest specifications are published biennially and are intended to be effective on January 1 of odd numbered years. Additionally, the subject of this final rule has been developed over a series of six public meetings of the Pacific Fishery Management Council from June 2017 to June 2018. These meetings are publicly noticed and the public is provided opportunity to comment on actions through this venue as well as through rulemaking.

Because of the potential harm to fishing communities that could be caused by delaying the effectiveness of this final rule and because of the previous notification to the regulated public of these changes through the Council process, NMFS finds there is good cause to waive the 30-day delay in effectiveness.

NMFS prepared an integrated analysis for this action, which addresses the statutory requirements of the Magnuson-Stevens Act, the National Environmental Policy Act, Presidential Executive Order 12866, and the Regulatory Flexibility Act. The NMFS WCR Regional Administrator concluded in a ''Finding of No Significant Impact'' that there will be no significant impact on the human environment as a result of this rule. A copy of the integrated analysis is available from NMFS (see **ADDRESSES**). The Office of Management and Budget has determined that this action is not significant for purposes of Executive Order 12866.

NMFS prepared a final regulatory flexibility analysis (FRFA) under section 603 of the Regulatory Flexibility Act (RFA), which incorporates the initial regulatory flexibility analysis (IRFA). A summary of any significant issues raised by the public comments in response to the IRFA, and NMFS's responses to those comments, and a summary of the analyses completed to support the action are addressed below. NMFS also prepared a Regulatory Impact Review (RIR) for this action. A copy of the RIR and FRFA are available from NMFS (see **ADDRESSES**), and per the requirements of 5 U.S.C. 604(a), the text of the FRFA follows:

Final Regulatory Flexibility Analysis

As applicable, section 604 of the Regulatory Flexibility Act (RFA) requires an agency to prepare a final regulatory flexibility analysis (FRFA) after being required by that section or any other law to publish a general notice of proposed rulemaking and when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code. The following paragraphs constitute the FRFA for this action.

This FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of any significant issues raised by the public comments, NMFS's responses to those comments, and a summary of the analyses completed to support the action. Analytical requirements for the FRFA are described in the RFA, section 604(a)(1) through (6). FRFAs contain:

1. A statement of the need for, and objectives of, the rule;

2. A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

3. The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;

4. A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available;

5. A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

6. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The ''universe'' of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the action. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (*e.g.,* user group, gear type, geographic area), that segment will be considered the universe for purposes of this analysis.

In preparing a FRFA, an agency may provide either a quantifiable or

numerical description of the effects of a rule (and alternatives to the rule), or more general descriptive statements, if quantification is not practicable or reliable.

Need for and Objective of This Final Rule

The purpose of this final rule is to prevent overfishing, to rebuild overfished stocks, to ensure conservation, to facilitate long-term protection of essential fish habitat (EFH), and to realize the full potential of the nation's fishery resources (Magnuson-Stevens Act section 2(a)(6)). This final rule is needed to respond to new scientific information and information about the needs of fishing communities, to provide additional tools to ensure that annual catch limits (ACLs) and other Federal harvest guidelines (HGs) are not exceeded, and to afford additional fishing opportunities where warranted.

Summary of Significant Issues Raised During Public Comment

NMFS published the proposed rule for the 2019–2020 harvest specifications and management measures on September 19, 2018 (83 FR 47416). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period on the proposed rule ended on October 19, 2018. NMFS received eight comment letters on the proposed rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the IRFA or the proposed rule. One comment was received pertaining to the IRFA, from CDFW, providing results of an analysis that changes the estimated number of vessels that may be impacted by a change in open access lingcod trip limits for vessels fishing in the salmon troll fishery between 42° N lat. and 40°10′ N lat. This information was updated for the FRFA below.

A Description and an Estimate of the Number of Small Entities to Which the Rule Will Apply

The RFA (5 U.S.C. 601 *et seq.*) requires government agencies to assess the effects that regulatory alternatives would have on small entities, defined as any business/organization independently owned and operated, not dominant in its field of operation (including its affiliates). A small *harvesting business* has combined annual receipts of $11 million [1] or less for all affiliated operations worldwide.

A small *fish-processing business* is one that employs 750 or fewer persons for all affiliated operations worldwide. NMFS is applying this standard to catcher/processors for the purposes of this rulemaking, because these vessels earn the majority of their revenue from selling processed fish.

For *marinas and charter/party boats,* a small business is one that has annual receipts not in excess of $7.5 million. A *wholesale business* servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

For the purposes of this rulemaking, a *nonprofit organization* is determined to be ''not dominant in its field of operation'' if it is considered small under one of the following SBA size standards: *Environmental, conservation, or professional organizations* are considered small if they have combined annual receipts of $15 million or less, and *other organizations* are considered small if they have combined annual receipts of $7.5 million or less. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

This final rule regulates businesses that participate in the groundfish fishery. This rule directly affects commercial vessels in the groundfish fisheries, trawl quota share (QS) holders and Pacific whiting catch history endorsed permit holders (which include shorebased whiting processors), tribal vessels, and charterboat vessels. Additionally, a provision of this final rule regulates commercial vessels in the salmon troll fleet.

To determine the number of small entities potentially affected by this rule, NMFS reviewed analyses of fish ticket data and limited entry permit data, information on charterboat, tribal, and open access fleets, available cost-earnings data developed by NWFSC, and responses associated with the permitting process for the Trawl Rationalization Program where applicants were asked if they considered themselves a small business based on SBA definitions. This rule primarily regulates businesses that harvest groundfish.

Charter Operations

There were an estimated 287 active Commercial Passenger Fishing Vessels (charter) engaged in groundfish fishing in California in 2017. In 2017, an estimated 49 charter boats targeted groundfish in Oregon. There is no Oregon license or tracking of ''six pack'' or party fishing vessel businesses that will also be impacted, however in one week in August 2017, there were 285 boat trips targeting recreational groundfish in Oregon, which would include the 49 charter vessels, and is an upper bound of such entities likely to be impacted in Oregon. Similarly in Washington, the number of party/charter vessels likely to be impacted by the rule was 182 in 2017. All 705 of these vessels are likely to be impacted by changes in recreational catch guidelines for groundfish in their respective states.

Commercial Vessels

Groundfish

Entities that are not registered as trusts, estates, governments, or non-profits are assumed to earn the majority of their revenue from commercial fishing. The definition above is used for 124 QS permit owners, who collectively received 76.5 percent of the QP issued in 2018. Limited entry groundfish vessels are required to self-report size across all affiliated entities; of the business who earn the majority of their revenue from commercial fishing, one self-reported as large. This entity owns four groundfish permits and one QS permit. 264 entities owning 376 permits self-reported as small. The average small entity owns 1.4 permits, with 30 small entities owning between 3–6 permits each. Open access groundfish vessel owners are assumed to earn the majority of their revenue from fishing and would thus fall into the SBA definition of small entities. 186 non-limited entry vessels harvested at least $10,000 worth of groundfish in 2017; these are likely to be impacted by this final rule. This number is likely an upper bound as some entities may own more than one vessel; however, these generally small operations are assumed to be independent entities; with the top three vessels having coastwide (including non-groundfish) revenues averaging $585,000. Median revenues were $37,000 per vessel.

[1] On December 29, 2015, the National Marine Fisheries Service (NMFS) issued a final rule establishing a small business size standard of $11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (NAICS 11411) for Regulatory Flexibility Act (RFA) compliance purposes only (80 FR 81194, December 29, 2015). The $11 million standard became effective on July 1, 2016, and after that date it is to be used in all NMFS rules subject to the RFA. Id. at 81194. This NMFS rule is to be used in place of the U.S. Small Business Administration's (SBA) current standards of $20.5 million, $5.5 million, and $7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry, respectively.

In addition to benefits from increasing ACLs in the harvest specifications, several of the new management measures contained in the rule are likely to benefit vessels. Clarifications such as the stock complex restructuring and updates to Rockfish Conservation Area coordinates may streamline management burden for vessels. IFQ vessels are expected to benefit from the removal of daily vessel quota pounds, which did not appear to constrain operations but did account for some level of administrative burden for quota pound account managers. With the elimination of these limits, managers will have greater flexibility in moving and holding quota pounds for the remaining overfished species and halibut IBQ. These vessels and vessel account operators may also benefit somewhat from changes to the discard mortality rates in the IFQ program. Some of the non-trawl fixed gear vessels are expected to benefit by the modifications to the commercial depths inside the Western Cowcod Conservation area in California.

Salmon Trollers

This final rule primarily impacts entities in the groundfish fishery. However, one new management measure included the rule will likely benefit vessels primarily involved in the salmon troll fishery, through a modification in the incidental lingcod retention ratio in that fishery. This modification reflects the increased rate of lingcod encounters during declining Chinook salmon harvest seasons. This modification allows salmon trollers to retain and sell a larger number of lingcod caught incidentally when targeting salmon. The level of activity varies substantially, with trips ranging from 500 to over 5,500 in a year. The subsector of the fleet expected to benefit from the final rule is much smaller, as historically a small proportion has elected to land lingcod within the previously allowed limits. In order to land lingcod, the vessel would have to install VMS, which likely deters salmon trollers, among other factors. Thus, this provision of the final rule may impact between 14 to 133 vessels in California of the approximately 207 operating there if they choose to retain lingcod. These estimates are updated from the IRFA based on public comment from CDFW and the results of their analysis. In Oregon, between 7 and 85 trollers have landed lingcod, and in Washington between 10 and 17. This final rule is expected to have a small benefit to these 235 vessels, which landed lingcod on a median of 1–2 trips, with vessels in the 90th percentile landing lingcod on 5 trips annually. This small positive benefit is not expected to be a substantial impact, nor are the entities likely to be impacted a substantial number of the overall salmon troll fishery.

QS Owners

As the harvest specifications process determines the amount of QP available in the catch share (limited entry trawl permit Individual Fishing Quota) sector, this final rule will impact QS. Twenty-two non-whiting QS permit owners are estimated, based on holdings of first receiver permit affiliation in the non-public West Coast Region permits database, to be primarily engaged in seafood ''product preparation and packaging.'' According to the size standard defined above, three of the entities that own three of these permits are considered small. These small processing entities were issued 1.7 percent of the non-whiting QP issued in 2018. Some of these small processing entities also own groundfish permits, required on both catcher vessels and catcher processors, which would be regulated by this final rule; three small entities primarily engaged in seafood processing own two groundfish permits. Thirty groundfish vessel permits are owned by seven entities who are considered large both estimated independently using the definition above, as well as through ownership affiliation to self-reported size on groundfish permit and first receiver site license permits (self-reported using the definition above). Six of these seven large processing entities were issued 10.2 percent of the non-whiting QP issued in 2018 across sixteen QS permits.

Governmental Jurisdictions

According to the public IFQ Account database as of June 19, 2018, the City of Monterey owns QS of ten stocks. The U.S. Census estimates the population to be 28,454 as of July 1, 2017, so it would be considered a small governmental jurisdiction by the RFA standard above. The City of Monterey received 0.5 percent of the QP issued for 2018 according to the public IFQ Account database.

Not-for-Profits

According to the public IFQ Account database, six not-for-profit organizations own QS in the catch share program and would thus be impacted by the trawl sector allocation under this final rule. Five of these would be considered small by the definition above (2016 annual receipts as reported on IRS form 990 of $120–500 thousand dollars), and one large (self-reported fiscal year 2017 receipts of $1.1 billion). Collectively, the five small not-for-profit organizations received 7.2 percent of the non-whiting [2] QP issued in 2018, and the large not-for-profit organization received 0.5 percent. The large not-for-profit organization also owned four limited entry trawl permits which would be impacted by the management measures of the rule.

Small Trusts

Eleven personal or family trusts/estates owned QS permits and would thus potentially be impacted by the trawl sector allocation under this final rule. All of these are assumed to be smaller than the size standard above. Collectively, these eight small entities received 4.2 percent of the non-whiting QP issued for 2018.

Recordkeeping, Reporting, and Other Compliance Requirements

This rule does not modify existing recordkeeping or reporting requirements.

Description of Significant Alternatives to This Final Rule That Minimize Economic Impacts on Small Entities

In the event of a fishery closure under the Biological Opinion provisions included in this rule, the loss of revenue in groundfish fisheries would likely have a substantial negative impact on a significant number of small entities, an equal impact to all large entities in the fishery. However, such a closure is not anticipated by either analysts or industry, given historic catch levels and cooperative management structures with extensive inseason monitoring. Because these provisions are non-discretionary under the ESA, there are no significant alternatives to the rule that would minimize adverse economic impacts on small entities.

The Council did consider alternatives to the rule which would have had a lower level of benefits to small entities, the Council did not consider alternatives that would have had greater benefits to small entities as these would not have met several primary objectives of the rule (prevent overfishing, rebuild overfished stocks, ensure conservation).

Under No Action, the default harvest specifications and associated routine management measures would be implemented using best scientific information available to establish default harvest control rules for all groundfish stocks. The Council

[2] Whiting is issued annually through a separate rulemaking process resulting from international treaty negotiations, see 83 FR 22401 (May 15, 2018) for more information and 2018 allocations.

considered alternative specifications for California scorpionfish, lingcod north of 40°10′ N lat, and yelloweye rockfish. In each case, the Council selected the harvest control rule that resulted in the maximum benefits to both large and small directly regulated entities. Routine management measures are adjusted according to harvest specifications, which also impact the new management measures available for implementation.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the West Coast Regional Office (see **ADDRESSES**), and the guide will be included in a public notice sent to all members of the groundfish email group. To sign-up for the groundfish email group, click on the ''subscribe'' link on the following website: *http://www.westcoast.fisheries.noaa.gov/publications/fishery_management/groundfish/public_notices/recent_public_notices.html.* The guide and this final rule will also be available on the West Coast Region's website (see **ADDRESSES**) and upon request.

Executive Order 13175

Pursuant to Executive Order 13175, this rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the PCGFMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the PCGFMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the PCGFMP request new allocations or regulations specific to the tribes, in writing, before the first of the two meetings at which the Council considers groundfish management measures. The regulations at 50 CFR 660.324(d) further state, ''the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.'' The tribal management measures in this rule have been developed following these procedures. The tribal representative on the Council made a motion to adopt the non-whiting tribal management measures, which was passed by the Council. Those management measures, which were developed and proposed by the tribes, are included in this final rule.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 3, 2018.

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 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 § 660.11, in the definition of ''Conservation area(s),'' revise paragraph (1), and in the definition of ''Groundfish,'' revise paragraphs (6), (7)(i), and (9) to read as follows:

§ 660.11 General definitions.

* * * * *

Conservation area(s) * * *

(1) *Groundfish Conservation Area* or *GCA* means a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited. Regulations at § 660.60(c)(3) describe the various purposes for which these GCAs may be implemented. Regulations at § 660.70 define coordinates for these polygonal GCAs: Yelloweye Rockfish Conservation Areas, Cowcod Conservation Areas, waters encircling the Farallon Islands, and waters encircling the Cordell Bank. GCAs also include Bycatch Reduction Areas (BRAs), and Rockfish Conservation Areas or RCAs, which are areas closed to fishing by particular gear types, bounded by lines approximating particular depth contours. RCA boundaries may and do change seasonally according to conservation needs. Regulations at §§ 660.70 through 660.74 define boundary lines with latitude/longitude coordinates; regulations at Tables 1 (North) and 1 (South) of subpart D of this part, Tables 2 (North) and 2 (South) of subpart E of this part, and Tables 3 (North) and 3 (South) of subpart F of this part set seasonal boundaries. Fishing prohibitions associated with GCAs are in addition to those associated with EFH Conservation Areas.

* * * * *

Groundfish * * *

* * * * *

(6) Roundfish: Cabezon, *Scorpaenichthys marmoratus;* kelp greenling, *Hexagrammos decagrammus;* lingcod, *Ophiodon elongatus;* Pacific cod, *Gadus macrocephalus;* Pacific whiting, *Merluccius productus;* sablefish, *Anoplopoma fimbria.* Species listed in paragraphs (6)(i) and (ii) of this definition with an area-specific listing are managed within a complex in that area-specific listing.

(i) Between 46°16′ N lat. and the U.S. Canada border (Washington): Cabezon, *S. marmoratus* and kelp greenling, *H. decagrammus.*

(ii) Between 46°16′ N lat. and 42° N lat. (Oregon): Cabezon, *S. marmoratus* and kelp greenling, *H. decagrammus.*

(7) * * *

(i) Nearshore rockfish includes black rockfish, *Sebastes melanops* (off Washington and California) and the following nearshore rockfish species managed in ''minor rockfish'' complexes:

(A) North of 46°16′ N lat. (Washington) and between 42°00′ N lat. and 40°10′ N lat. (northern California): Black and yellow rockfish, *S. chrysomelas;* blue rockfish, *S. mystinus;* brown rockfish, *S. auriculatus;* calico rockfish, *S. dalli;* China rockfish, *S. nebulosus;* copper rockfish, *S. caurinus;* deacon rockfish, *S. diaconus,* gopher rockfish, *S. carnatus;* grass rockfish, *S. rastrelliger;* kelp rockfish, *S. atrovirens;* olive rockfish, *S. serranoides;* quillback rockfish, *S. maliger;* treefish, *S. serriceps.*

(B) Between 46°16′ N lat. and 42° N lat. (Oregon): Black and yellow rockfish, *S. chrysomelas;* brown rockfish, *S. auriculatus;* calico rockfish, *S. dalli;* China rockfish, *S. nebulosus;* copper rockfish, *S. caurinus;* gopher rockfish, *S. carnatus;* grass rockfish, *S. rastrelliger;* kelp rockfish, *S. atrovirens;* olive rockfish, *S. serranoides;* quillback rockfish, *S. maliger;* treefish, *S. serriceps.*

(C) Between 46°16′ N lat. and 42° N lat. (Oregon): Black rockfish, *S. melanops,* blue rockfish, *S. mystinus,* and deacon rockfish, *S. diaconus.*

* * * * *

(9) ''Other Fish'': kelp greenling (*Hexagrammos decagrammus*) off

California and leopard shark (*Trakis semifasciata*).

* * * * *

■ 3. Amend § 660.40 as follows:
■ a. Remove paragraph (a), (c), and (d);
■ b. Redesignate paragraphs (b) and (e) as paragraph (a) and (b); and
■ c. Revise newly redesignated paragraph (b).

The revision reads as follows:

§ 660.40 Overfished species rebuilding plans.

* * * * *

(b) *Yelloweye rockfish.* Yelloweye rockfish was declared overfished in 2002. The target year for rebuilding the yelloweye rockfish stock to B_{MSY} is 2029. The harvest control rule to be used to rebuild the yelloweye rockfish stock is an annual SPR harvest rate of 65.0 percent.

■ 4. In § 660.50, revise paragraphs (f)(2)(ii) and (f)(6) and add paragraph (h) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(2) * * *

(ii) The Tribal allocation is 561 mt in 2019 and 572 mt in 2020 per year. This allocation is, for each year, 10 percent of the Monterey through Vancouver area (North of 36° N lat.) ACL. The Tribal allocation is reduced by 1.5 percent for estimated discard mortality.

* * * * *

(6) *Petrale sole.* For petrale sole, treaty fishing vessels are restricted to a fleetwide harvest target of 290 mt each year.

* * * * *

(h) *Salmon bycatch.* This fishery may be closed through automatic action at § 660.60(d)(1)(v) and (vi).

■ 5. In § 660.55, revise paragraphs (c)(1)(i)(A) and (B) to read as follows:

§ 660.55 Allocations.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) *Darkblotched rockfish.* Distribute 9 percent or 25 mt, whichever is greater, of the total trawl allocation of darkblotched rockfish to the Pacific whiting fishery (MS sector, C/P sector, and Shorebased IFQ sectors). The distribution of darkblotched rockfish to each sector will be done pro rata relative to the sector's allocation of the commercial harvest guideline for Pacific whiting. Darkblotched rockfish distributed to the MS sector and C/P sector are managed as set-asides at Table 1d and Table 2d to this subpart. The allocation of darkblotched rockfish to the Pacific whiting IFQ fishery contributes to the Shorebased IFQ allocation. After deducting allocations for the Pacific whiting fishery, the remaining trawl allocation is allocated to the Shorebased IFQ Program.

(B) *Pacific Ocean Perch (POP).* Distribute 17 percent or 30 mt, whichever is greater, of the total trawl allocation of POP to the Pacific whiting fishery (MS sector, C/P sector, and Shorebased IFQ sector). The distribution of POP to each sector will be done pro rata relative to the sector's allocation of the commercial harvest guideline for Pacific whiting. POP distributed to the MS sector and C/P sector are managed as set-asides at Table 1d and Table 2d to this subpart. The allocation of POP to the Pacific whiting IFQ fishery contributes to the Shorebased IFQ allocation. After deducting allocations for the Pacific whiting fishery, the remaining trawl allocation is allocated to the Shorebased IFQ Program.

* * * * *

■ 6. Amend § 660.60 as follows:
■ a. Revise paragraph (d)(1)(v);
■ b. Remove paragraph (d)(1)(vii);
■ c. Redesignate paragraph (d)(1)(vi) as paragraph (d)(1)(vii); and
■ d. Add new paragraph (d)(1)(vi).

The revision and addition read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(d) * * *

(1) * * *

(v) Close one or both of the whiting or non-whiting sectors of the groundfish fishery upon that sector having exceeded its annual Chinook salmon bycatch guideline and the reserve.

The whiting sector includes the Pacific whiting IFQ fishery, MS, and C/P sectors. The non-whiting sector includes the midwater trawl, bottom trawl, and fixed gear fisheries under the Shorebased IFQ Program, limited entry fixed gear fisheries, open access fisheries, and recreational fisheries subject to this provision as set out in § 660.360(d).

(A) The whiting sector Chinook salmon bycatch guideline is 11,000 fish.

(B) The non-whiting sector Chinook salmon bycatch guideline is 5,500 fish.

(C) The reserve is 3,500 fish.

(vi) Close the whiting or non-whiting sector of the groundfish fishery upon that sector having exceeded its annual Chinook salmon bycatch guideline if the other sector has already been closed after exceeding its Chinook salmon bycatch guideline and the reserve. The whiting sector includes the Pacific whiting IFQ fishery, MS, and C/P sectors. The non-whiting sector includes the midwater trawl, bottom trawl, and fixed gear fisheries under the Shorebased IFQ Program, limited entry fixed gear fisheries, open access fisheries, and recreational fisheries subject to this provision as set out in § 660.360(d).

* * * * *

■ 7. Amend § 660.71 as follows:
■ a. Redesignate paragraphs (k) through (n) as paragraphs (o) through (r); and
■ b. Add new paragraphs (k) through (n) and paragraphs (s) through (v).

The additions read as follows:

§ 660.71 Latitude/longitude coordinates defining the 10–fm (18–m) through 40–fm (73–m) depth contours.

* * * * *

(k) The 30 fm (55 m) depth contour around Santa Barbara Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°30.38′ N lat., 119°03.15′ W long.;

(2) 33°29.64′ N lat., 119°00.58′ W long.;

(3) 33°27.24′ N lat., 119°01.73′ W long.;

(4) 33°27.76′ N lat., 119°03.48′ W long.;

(5) 33°29.50′ N lat., 119°04.20′ W long.; and

(6) 33°30.38′ N lat., 119°03.15′ W long.

(l) The 30 fm (55 m) depth contour around San Nicholas Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°18.39′ N lat., 119°38.87′ W long.;

(2) 33°18.63′ N lat., 119°27.52′ W long.;

(3) 33°15.24′ N lat., 119°20.10′ W long.;

(4) 33°13.27′ N lat., 119°20.10′ W long.;

(5) 33°12.16′ N lat., 119°26.82′ W long.;

(6) 33°13.20′ N lat., 119°31.87′ W. long.;

(7) 33°15.70′ N lat., 119°38.87′ W long.;

(8) 33°17.52′ N lat., 119°40.15′ W long.; and

(9) 33°18.39′ N lat., 119°38.87′ W long.

(m) The 30 fm (55 m) depth contour around Tanner Bank off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 32°43.02′ N lat., 119°08.52′ W long.;

(2) 32°41.81′ N lat., 119°06.20′ W long.;
(3) 32°40.67′ N lat., 119°06.82′ W long.;
(4) 32°41.62′ N lat., 119°09.46′ W long.; and
(5) 32°43.02′ N lat., 119°08.52′ W long.

(n) The 30 fm (55 m) depth contour around Cortes Bank off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°29.73′ N lat., 119°12.95′ W long.;
(2) 32°28.17′ N lat., 119°07.04′ W long.;
(3) 32°26.27′ N lat., 119°04.14′ W long.;
(4) 32°25.22′ N lat., 119°04.77′ W long.;
(5) 32°28.60′ N lat., 119°14.15′ W long.; and
(6) 32°29.73′ N lat., 119°12.95′ W long.

* * * * *

(s) The 40 fm (73 m) depth contour around Santa Barbara Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°30.87′ N lat., 119°02.43′ W long.;
(2) 33°29.87′ N lat., 119°00.34′ W long.;
(3) 33°27.08′ N lat., 119°01.65′ W long.;
(4) 33°27.64′ N lat., 119°03.45′ W long.;
(5) 33°29.12′ N lat., 119°04.55′ W long.;
(6) 33°29.66′ N lat., 119°05.49′ W long.; and
(7) 33°30.87′ N lat., 119°02.43′ W long.

(t) The 40 fm (73 m) depth contour around Tanner Bank off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°43.40′ N lat., 119°08.56′ W long.;
(2) 32°41.36′ N lat., 119°05.02′ W long.;
(3) 32°40.07′ N lat., 119°05.59′ W long.;
(4) 32°41.51′ N lat., 119°09.76′ W long.; and
(5) 32°43.40′ N lat., 119°08.56′ W long.

(u) The 40 fm (73 m) depth contour around San Nicholas Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°19.30′ N lat., 119°41.05′ W long.;
(2) 33°19.42′ N lat., 119°27.88′ W long.;
(3) 33°14.31′ N lat., 119°17.48′ W long.;
(4) 33°12.90′ N lat., 119°17.64′ W long.;
(5) 33°11.89′ N lat., 119°27.26′ W long.;
(6) 33°12.19′ N lat., 119°29.96′ W long.;
(7) 33°15.42′ N lat., 119°39.14′ W long.;
(8) 33°17.58′ N lat., 119°41.38′ W long.; and
(9) 33°19.30′ N lat., 119°41.05′ W long.

(v) The 40 fm (73 m) depth contour around Cortes Bank off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°30.00′ N lat., 119°12.98′ W long.;
(2) 32°28.33′ N lat., 119°06.81′ W long.;
(3) 32°25.69′ N lat., 119°03.21′ W long.;
(4) 32°24.66′ N lat., 119°03.83′ W long.;
(5) 32°28.48′ N lat., 119°14.66′ W long.; and
(6) 32°30.00′ N lat., 119°12.98′ W long.

■ 8. Amend § 660.72 as follows:
■ a. Redesignate paragraphs (k)(15) through (31) as (k)(17) through (33), respectively; and
■ b. Add new paragraphs (k)(15) and (16).

The additions read as follows:

§ 660.72 Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours.

* * * * *

(k) * * *
(15) 33°57.77′ N lat., 119°33.49′ W long.;
(16) 33°57.64′ N lat., 119°35.78′ W long.;

* * * * *

■ 9. Amend § 660.73 as follows:
■ a. Revise paragraphs (a)(178), (181), and (190) through (192) and (d)(205) through (354);
■ b. Add paragraphs (d)(355) through (363);
■ c. Revise paragraphs (h)(281) through (313); and
■ d. Add paragraphs (h)(314) through (316).

The revisions and additions read as follows:

§ 660.73 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.

* * * * *

(a) * * *
(178) 40°10.13′ N lat., 124°21.92′ W long.;

* * * * *

(181) 40°06.39′ N lat., 124°17.26′ W long.;

* * * * *

(190) 40°01.00′ N lat., 124°09.96′ W long.;
(191) 39°58.07′ N lat., 124°11.81′ W long.;
(192) 39°56.39′ N lat., 124°08.69′ W long.;

* * * * *

(d) * * *
(205) 40°02.67′ N lat., 124°11.83′ W long.;
(206) 40°02.70′ N lat., 124°10.57′ W long.;
(207) 40°04.08′ N lat., 124°10.09′ W long.;
(208) 40°04.08′ N lat., 124°09.10′ W long.;
(209) 40°01.23′ N lat., 124°08.91′ W long.;
(210) 40°01.18′ N lat., 124°09.92′ W long.;
(211) 39°58.05′ N. lat., 124°11.87′ W long.;
(212) 39°56.39′ N lat., 124°08.70′ W long.;
(213) 39°54.64′ N lat., 124°07.31′ W long.;
(214) 39°53.87′ N lat., 124°07.95′ W long.;
(215) 39°52.42′ N lat., 124°08.18′ W long.;
(216) 39°49.64′ N lat., 124°06.05′ W long.;
(217) 39°49.30′ N lat., 124°04.60′ W long.;
(218) 39°48.49′ N lat., 124°03.86′ W long.;
(219) 39°47.73′ N lat., 124°04.59′ W long.;
(220) 39°42.50′ N lat., 124°00.60′ W long.;
(221) 39°34.23′ N lat., 123°56.82′ W long.;
(222) 39°33.00′ N lat., 123°56.44′ W long.;
(223) 39°30.96′ N lat., 123°56.00′ W long.;
(224) 39°31.34′ N lat., 123°56.71′ W long.;
(225) 39°32.03′ N lat., 123°57.44′ W long.;
(226) 39°31.43′ N lat., 123°58.16′ W long.;
(227) 39°05.56′ N lat., 123°57.24′ W long.;
(228) 39°01.75′ N lat., 123°56.83′ W long.;
(229) 38°59.52′ N lat., 123°55.95′ W long.;
(230) 38°58.98′ N lat., 123°56.57′ W long.;
(231) 38°57.50′ N lat., 123°56.57′ W long.;
(232) 38°53.91′ N lat., 123°56.00′ W long.;
(233) 38°42.57′ N lat., 123°46.60′ W long.;

(234) 38°28.72′ N lat., 123°35.61′ W long.;
(235) 38°28.01′ N lat., 123°36.47′ W long.;
(236) 38°20.94′ N lat., 123°31.26′ W long.;
(237) 38°15.94′ N lat., 123°25.33′ W long.;
(238) 38°10.95′ N lat., 123°23.19′ W long.;
(239) 38°05.52′ N lat., 123°22.90′ W long.;
(240) 38°08.46′ N lat., 123°26.23′ W long.;
(241) 38°06.95′ N lat., 123°28.03′ W long.;
(242) 38°06.25′ N lat., 123°29.70′ W long.;
(243) 38°04.57′ N lat., 123°31.37′ W long.;
(244) 38°02.32′ N lat., 123°31.09′ W long.;
(245) 37°59.97′ N lat., 123°28.43′ W long.;
(246) 37°58.10′ N lat., 123°26.69′ W long.;
(247) 37°55.46′ N lat., 123°27.05′ W long.;
(248) 37°51.51′ N lat., 123°24.86′ W long.;
(249) 37°45.01′ N lat., 123°12.09′ W long.;
(250) 37°35.67′ N lat., 123°01.56′ W long.;
(251) 37°26.62′ N lat., 122°56.21′ W long.;
(252) 37°14.41′ N lat., 122°49.07′ W long.;
(253) 37°11.00′ N lat., 122°45.87′ W long.;
(254) 37°07.00′ N lat., 122°41.97′ W long.;
(255) 37°03.19′ N lat., 122°38.31′ W long.;
(256) 37°00.99′ N lat., 122°35.51′ W long.;
(257) 36°58.31′ N lat., 122°27.56′ W long.;
(258) 37°00.54′ N lat., 122°24.74′ W long.;
(259) 36°57.81′ N lat., 122°24.65′ W long.;
(260) 36°58.54′ N lat., 122°21.67′ W long.;
(261) 36°56.52′ N lat., 122°21.70′ W long.;
(262) 36°55.37′ N lat., 122°18.45′ W long.;
(263) 36°52.16′ N lat., 122°12.17′ W long.;
(264) 36°51.53′ N lat., 122°10.67′ W long.;
(265) 36°48.05′ N lat., 122°07.59′ W long.;
(266) 36°47.35′ N lat., 122°03.27′ W long.;
(267) 36°50.71′ N lat., 121°58.17′ W long.;
(268) 36°48.89′ N lat., 121°58.90′ W long.;
(269) 36°47.70′ N lat., 121°58.76′ W long.;
(270) 36°48.37′ N lat., 121°51.15′ W long.;
(271) 36°45.74′ N lat., 121°54.18′ W long.;
(272) 36°45.50′ N lat., 121°57.73′ W long.;
(273) 36°44.02′ N lat., 121°58.55′ W long.;
(274) 36°38.84′ N lat., 122°01.32′ W long.;
(275) 36°35.63′ N lat., 122°00.98′ W long.;
(276) 36°32.47′ N lat., 121°59.17′ W long.;
(277) 36°32.52′ N lat., 121°57.62′ W long.;
(278) 36°30.16′ N lat., 122°00.55′ W long.;
(279) 36°24.56′ N lat., 121°59.19′ W long.;
(280) 36°22.19′ N lat., 122°00.30′ W long.;
(281) 36°20.62′ N lat., 122°02.93′ W long.;
(282) 36°18.89′ N lat., 122°05.18′ W long.;
(283) 36°14.45′ N lat., 121°59.44′ W long.;
(284) 36°13.73′ N lat., 121°57.38′ W long.;
(285) 36°14.41′ N lat., 121°55.45′ W long.;
(286) 36°10.25′ N lat., 121°43.08′ W long.;
(287) 36°07.67′ N lat., 121°40.92′ W long.;
(288) 36°02.51′ N lat., 121°36.76′ W long.;
(289) 36°01.04′ N lat., 121°36.68′ W long.;
(290) 36°00.00′ N lat., 121°35.15′ W long.;
(291) 35°57.84′ N lat., 121°33.10′ W long.;
(292) 35°45.57′ N lat., 121°27.26′ W long.;
(293) 35°39.02′ N lat., 121°22.86′ W long.;
(294) 35°25.92′ N lat., 121°05.52′ W long.;
(295) 35°16.26′ N lat., 121°01.50′ W long.;
(296) 35°07.60′ N lat., 120°56.49′ W long.;
(297) 34°57.77′ N lat., 120°53.87′ W long.;
(298) 34°42.30′ N lat., 120°53.42′ W long.;
(299) 34°37.69′ N lat., 120°50.04′ W long.;
(300) 34°30.13′ N lat., 120°44.45′ W long.;
(301) 34°27.00′ N lat., 120°39.24′ W long.;
(302) 34°24.71′ N lat., 120°35.37′ W long.;
(303) 34°21.63′ N lat., 120°24.86′ W long.;
(304) 34°24.39′ N lat., 120°16.65′ W long.;
(305) 34°22.48′ N lat., 119°56.42′ W long.;
(306) 34°18.54′ N lat., 119°46.26′ W long.;
(307) 34°16.37′ N lat., 119°45.12′ W long.;
(308) 34°15.91′ N lat., 119°47.29′ W long.;
(309) 34°13.80′ N lat., 119°45.40′ W long.;
(310) 34°11.69′ N lat., 119°41.80′ W long.;
(311) 34°09.98′ N lat., 119°31.87′ W long.;
(312) 34°08.12′ N lat., 119°27.71′ W long.;
(313) 34°06.35′ N lat., 119°32.65′ W long.;
(314) 34°06.80′ N lat., 119°40.08′ W long.;
(315) 34°07.48′ N lat., 119°47.54′ W long.;
(316) 34°08.21′ N lat., 119°54.90′ W long.;
(317) 34°06.85′ N lat., 120°05.60′ W long.;
(318) 34°07.03′ N lat., 120°10.47′ W long.;
(319) 34°08.77′ N lat., 120°18.46′ W long.;
(320) 34°11.89′ N lat., 120°28.09′ W long.;
(321) 34°12.53′ N lat., 120°29.82′ W long.;
(322) 34°09.02′ N lat., 120°37.47′ W long.;
(323) 34°01.01′ N lat., 120°31.17′ W long.;
(324) 33°58.07′ N lat., 120°28.33′ W long.;
(325) 33°53.37′ N lat., 120°14.43′ W long.;
(326) 33°50.53′ N lat., 120°07.20′ W long.;
(327) 33°45.88′ N lat., 120°04.26′ W long.;
(328) 33°38.19′ N lat., 119°57.85′ W long.;
(329) 33°38.19′ N lat., 119°50.42′ W long.;
(330) 33°42.36′ N lat., 119°49.60′ W long.;
(331) 33°53.95′ N lat., 119°53.81′ W long.;
(332) 33°55.99′ N lat., 119°41.40′ W long.;
(333) 33°58.48′ N lat., 119°27.90′ W long.;
(334) 33°59.24′ N lat., 119°23.61′ W long.;
(335) 33°59.35′ N lat., 119°21.71′ W long.;
(336) 33°59.94′ N lat., 119°19.57′ W long.;
(337) 34°04.48′ N lat., 119°15.32′ W long.;
(338) 34°02.80′ N lat., 119°12.95′ W long.;

(339) 34°02.39′ N lat., 119°07.17′ W long.;
(340) 34°03.75′ N lat., 119°04.72′ W long.;
(341) 34°01.82′ N lat., 119°03.24′ W long.;
(342) 33°59.33′ N lat., 119°03.49′ W long.;
(343) 33°59.01′ N lat., 118°59.56′ W long.;
(344) 33°59.51′ N lat., 118°57.25′ W long.;
(345) 33°58.83′ N lat., 118°52.50′ W long.;
(346) 33°58.55′ N lat., 118°41.86′ W long.;
(347) 33°55.10′ N lat., 118°34.25′ W long.;
(348) 33°54.30′ N lat., 118°38.71′ W long.;
(349) 33°50.88′ N lat., 118°37.02′ W long.;
(350) 33°39.78′ N lat., 118°18.40′ W long.;
(351) 33°35.50′ N lat., 118°16.85′ W long.;
(352) 33°32.46′ N lat., 118°10.90′ W long.;
(353) 33°34.11′ N lat., 117°54.07′ W long.;
(354) 33°31.61′ N lat., 117°49.30′ W long.;
(355) 33°16.36′ N lat., 117°35.48′ W long.;
(356) 33°06.81′ N lat., 117°22.93′ W long.;
(357) 32°59.28′ N lat., 117°19.69′ W long.;
(358) 32°55.37′ N lat., 117°19.55′ W long.;
(359) 32°53.35′ N lat., 117°17.05′ W long.;
(360) 32°53.36′ N lat., 117°19.12′ W long.;
(361) 32°46.42′ N lat., 117°23.45′ W long.;
(362) 32°42.71′ N lat., 117°21.45′ W long.; and
(363) 32°34.54′ N lat., 117°23.04′ W long.

* * * * *

(h) * * *

(281) 34°07.10′ N lat., 120°10.37′ W long.;
(282) 34°11.07′ N lat., 120°25.03′ W long.;
(283) 34°09.00′ N lat., 120°18.40′ W long.;
(284) 34°13.16′ N lat., 120°29.40′ W long.;
(285) 34°09.41′ N lat., 120°37.75′ W long.;
(286) 34°03.15′ N lat., 120°34.71′ W long.;
(287) 33°57.09′ N lat., 120°27.76′ W long.;
(288) 33°51.00′ N lat., 120°09.00′ W long.;
(289) 33°38.16′ N lat., 119°59.23′ W long.;
(290) 33°37.04′ N lat., 119°50.17′ W long.;
(291) 33°42.28′ N lat., 119°48.85′ W long.;
(292) 33°53.96′ N lat., 119°53.77′ W long.;
(293) 33°55.88′ N lat., 119°41.05′ W long.;
(294) 33°59.18′ N lat., 119°23.64′ W long.;
(295) 33°59.26′ N lat., 119°21.92′ W long.;
(296) 33°59.94′ N lat., 119°19.57′ W long.;
(297) 34°03.12′ N lat., 119°15.51′ W long.;
(298) 34°01.97′ N lat., 119°07.28′ W long.;
(299) 34°03.60′ N lat., 119°04.71′ W long.;
(300) 33°59.30′ N lat., 119°03.73′ W long.;
(301) 33°58.87′ N lat., 118°59.37′ W long.;
(302) 33°58.08′ N lat., 118°41.14′ W long.;
(303) 33°50.93′ N lat., 118°37.65′ W long.;
(304) 33°39.54′ N lat., 118°18.70′ W long.;
(305) 33°35.42′ N lat., 118°17.14′ W long.;
(306) 33°32.15′ N lat., 118°10.84′ W long.;
(307) 33°33.71′ N lat., 117°53.72′ W long.;
(308) 33°31.17′ N lat., 117°49.11′ W long.;
(309) 33°16.53′ N lat., 117°36.13′ W long.;
(310) 33°06.77′ N lat., 117°22.92′ W long.;
(311) 32°58.94′ N lat., 117°20.05′ W long.;
(312) 32°55.83′ N lat., 117°20.15′ W long.;
(313) 32°46.29′ N lat., 117°23.89′ W long.;
(314) 32°42.00′ N lat., 117°22.16′ W long.;
(315) 32°39.47′ N lat., 117°27.78′ W long.; and
(316) 32°34.83′ N lat., 117°24.69′ W long.

* * * * *

■ 10. Tables 1a to part 660, subpart C, through 1d to part 660, subpart C, are revised to read as follows:

Sec.

* * * * *

Table 1a to Part 660, Subpart C—2019, Specifications of OFL, ABC, ACL, ACT and Fishery HG (Weights in Metric Tons)
Table 1b to Part 660, Subpart C—2019, Allocations by Species or Species Group (Weight in Metric Tons)
Table 1c to Part 660, Subpart C—Sablefish North of 36° N lat. Allocations, 2019
Table 1d to Part 660, Subpart C—At-Sea Whiting Fishery Annual Set-Asides, 2019

* * * * *

TABLE 1a TO PART 660, SUBPART C—2019, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HG

[Weights in metric tons]

Stocks/stock complexes	Area	OFL	ABC	ACL [a]	Fishery HG [b]
COWCOD [c]	S of 40°10′ N lat	74	67	10	8
COWCOD	(Conception)	61	56	NA	NA
COWCOD	(Monterey)	13	11	NA	NA
YELLOWEYE ROCKFISH [d]	Coastwide	82	74	48	42
Arrowtooth Flounder [e]	Coastwide	18,696	15,574	15,574	13,479
Big Skate [f]	Coastwide	541	494	494	452
Black Rockfish [g]	California (S of 42° N lat.)	344	329	329	328
Black Rockfish [h]	Washington (N of 46°16′ N lat.)	312	298	298	280
Bocaccio [i]	S of 40°10′ N lat	2,194	2,097	2,097	2,051
Cabezon [j]	California (S of 42° N lat.)	154	147	147	147
California Scorpionfish [k]	S of 34°27′ N lat	337	313	313	311
Canary Rockfish [l]	Coastwide	1,517	1,450	1,450	1,383
Chilipepper Rockfish [m]	S of 40°10′ N lat	2,652	2,536	2,536	2,451
Darkblotched Rockfish [n]	Coastwide	800	765	765	731
Dover Sole [o]	Coastwide	91,102	87,094	50,000	48,404
English Sole [p]	Coastwide	11,052	10,090	10,090	9,874
Lingcod [q]	N of 40°10′ N lat	5,110	4,885	4,871	4,593

TABLE 1a TO PART 660, SUBPART C—2019, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HG—Continued

[Weights in metric tons]

Stocks/stock complexes	Area	OFL	ABC	ACL [a]	Fishery HG [b]
Lingcod [r]	S of 40°10′ N lat	1,143	1,093	1,039	1,028
Longnose Skate [s]	Coastwide	2,499	2,389	2,000	1,852
Longspine Thornyhead [t]	N of 34°27′ N lat	4,112	3,425	2,603	2,553
Longspine Thornyhead [u]	S of 34°27′ N lat			822	821
Pacific Cod [v]	Coastwide	3,200	2,221	1,600	1,094
Pacific Whiting [w]	Coastwide	(w)	(w)	(w)	(w)
Pacific Ocean Perch [x]	N of 40°10′ N lat	4,753	4,340	4,340	4,318
Petrale Sole [y]	Coastwide	3,042	2,908	2,908	2,587
Sablefish [z]	N of 36° N lat	8,489	7,750	5,606	See Table 1c
Sablefish [aa]	S of 36° N lat			1,990	1,986
Shortbelly Rockfish [bb]	Coastwide	6,950	5,789	500	483
Shortspine Thornyhead [cc]	N of 34°27′ N lat	3,089	2,573	1,683	1,618
Shortspine Thornyhead [dd]	S of 34°27′ N lat			890	889
Spiny Dogfish [ee]	Coastwide	2,486	2,071	2,071	1,738
Splitnose Rockfish [ff]	S of 40°10′ N lat	1,831	1,750	1,750	1,733
Starry Flounder [gg]	Coastwide	652	452	452	433
Widow Rockfish [hh]	Coastwide	12,375	11,831	11,831	11,583
Yellowtail Rockfish [ii]	N of 40°10′ N lat	6,568	6,279	6,279	5,234
Black Rockfish/Blue Rockfish/Deacon Rockfish [jj]	Oregon (Between 46°16′ N lat. and 42° N lat.).	677	617	617	616
Cabezon/Kelp Greenling [kk]	Oregon (Between 46°16′ N lat. and 42° N lat.).	230	218	218	218
Cabezon/Kelp Greenling [ll]	Washington (N of 46°16′ N lat.)	13	11	11	11
Nearshore Rockfish [mm]	N of 40°10′ N lat	91	81	81	79
Shelf Rockfish [nn]	N of 40°10′ N lat.	2,309	2,054	2,054	1,977
Slope Rockfish [oo]	N of 40°10′ N lat	1,887	1,746	1,746	1,665
Nearshore Rockfish [pp]	S of 40°10′ N lat.	1,300	1,145	1,142	1,138
Shelf Rockfish [qq]	S of 40°10′ N lat	1,919	1,625	1,625	1,546
Slope Rockfish [rr]	S of 40°10′ N lat	856	744	744	724
Other Flatfish [ss]	Coastwide	8,750	6,498	6,498	6,249
Other Fish [tt]	Coastwide	286	239	239	230

[a] Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

[b] Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

[c] Cowcod south of 40°10′ N lat. 2 mt is deducted from the ACL to EFP fishing (less than 0.1 mt) and research activity (2 mt), resulting in a fishery HG of 8 mt. Any additional mortality in research activities will be deducted from the ACL. A single ACT of 6 mt is being set for the Conception and Monterey areas combined.

[d] Yelloweye rockfish. The 48 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2029 and an SPR harvest rate of 65 percent. 6.1 mt is deducted from the ACL to accommodate the Tribal fishery (2.3 mt), the incidental open access fishery (0.62 mt), EFP catch (0.24 mt) and research catch (2.92 mt), resulting in a fishery HG of 42 mt. The non-trawl HG is 38.6 mt. The non-nearshore HG is 2.0 mt and the nearshore HG is 6.0 mt. Recreational HGs are: 10 mt (Washington); 8.9 mt (Oregon); and 11.6 mt (California). In addition, there are the following ACTs: Non-nearshore (1.6 mt), nearshore (4.7 mt), Washington recreational (7.8 mt), Oregon recreational (7.0 mt), and California recreational (9.1 mt).

[e] Arrowtooth flounder. 2,094.9 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), the incidental open access fishery (40.8 mt), EFP fishing (0.1 mt), and research catch (13 mt), resulting in a fishery HG of 13,479 mt.

[f] Big skate. 41.9 mt is deducted from the ACL to accommodate the Tribal fishery (15 mt), the incidental open access fishery (21.3 mt), EFP fishing (0.1 mt), and research catch (5.5 mt), resulting in a fishery HG of 452 mt.

[g] Black rockfish (California). 1.3 mt is deducted from the ACL to accommodate EFP fishing (1.0 mt) and incidental open access fishery (0.3 mt), resulting in a fishery HG of 328 mt.

[h] Black rockfish (Washington). 18.1 mt is deducted from the ACL to accommodate the Tribal fishery (18 mt) and research catch (0.1 mt), resulting in a fishery HG of 280 mt.

[i] Bocaccio south of 40°10′ N lat. The stock is managed with stock-specific harvest specifications south of 40°10′ N lat. and within the Minor Shelf Rockfish complex north of 40°10′ N lat. 46.1 mt is deducted from the ACL to accommodate the incidental open access fishery (0.5 mt), EFP catch (40 mt) and research catch (5.6 mt), resulting in a fishery HG of 2,051 mt. The California recreational fishery south of 40°10′ N lat has an HG of 863.4 mt.

[j] Cabezon (California). 0.3 mt is deducted from the ACL to accommodate the incidental open access fishery, resulting in a fishery HG of 147 mt.

[k] California scorpionfish south of 34°27′ N lat. 2.4 mt is deducted from the ACL to accommodate the incidental open access fishery (2.2 mt) and research catch (0.2 mt), resulting in a fishery HG of 311 mt.

[l] Canary rockfish. 67.1 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (1.3 mt), EFP catch (8 mt), and research catch (7.8 mt), resulting in a fishery HG of 1,383 mt. Recreational HGs are: 47.1 mt (Washington); 70.7 mt (Oregon); and 127.3 mt (California).

[m] Chilipepper rockfish south of 40°10′ N lat. Chilipepper are managed with stock-specific harvest specifications south of 40°10′ N lat. and within the Minor Shelf Rockfish complex north of 40°10′ N lat. 84.9 mt is deducted from the ACL to accommodate the incidental open access fishery (11.5 mt), EFP fishing (60 mt), and research catch (13.4 mt), resulting in a fishery HG of 2,451 mt.

[n] Darkblotched rockfish. 33.8 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), the incidental open access fishery (24.5 mt), EFP catch (0.6 mt), and research catch (8.5 mt) resulting in a fishery HG of 731 mt.

[o] Dover sole. 1,595.6 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), the incidental open access fishery (49.3 mt), EFP fishing (0.1 mt), and research catch (49.2 mt), resulting in a fishery HG of 48,404 mt.

[p] English sole. 216.2 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (8.1 mt), EFP fishing (0.1 mt), and research catch (8 mt), resulting in a fishery HG of 9,874 mt.

[q] Lingcod north of 40°10′ N lat. 278 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (9.8 mt), EFP catch (1.6 mt) and research catch (16.6 mt), resulting in a fishery HG of 4,593 mt.

[r] Lingcod south of 40°10′ N lat. 11.3 mt is deducted from the ACL to accommodate the incidental open access fishery (8.1 mt) and research catch (3.2 mt), resulting in a fishery HG of 1,028 mt.

[s] Longnose skate. 148.3 mt is deducted from the ACL to accommodate the Tribal fishery (130 mt), incidental open access fishery (5.7 mt), EFP catch (0.1 mt), and research catch (12.5 mt), resulting in a fishery HG of 1,852 mt.

[t] Longspine thornyhead north of 34°27′ N lat. 50.4 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (6.2 mt), and research catch (14.2 mt), resulting in a fishery HG of 2,553 mt.

[u] Longspine thornyhead south of 34°27′ N lat. 1.4 mt is deducted from the ACL to accommodate research catch, resulting in a fishery HG of 821 mt.

[v] Pacific cod. 506.2 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), research catch (5.5 mt), EFP fishing (0.1 mt), and the incidental open access fishery (0.6 mt), resulting in a fishery HG of 1,094 mt.

[w] Pacific whiting. Pacific whiting are assessed annually. The final specifications will be determined consistent with the U.S.-Canada Pacific Whiting Agreement and will be announced after the Council's April 2019 meeting.

[x] Pacific ocean perch north of 40°10′ N lat. 22.4 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), the incidental open access fishery (10 mt), EFP fishing (0.1 mt), and research catch (3.1 mt) resulting in a fishery HG of 4,318 mt.

[y] Petrale sole. 320.6 mt is deducted from the ACL to accommodate the Tribal fishery (290 mt), the incidental open access fishery (6.4 mt), EFP catch (0.1 mt), and research catch (24.1 mt), resulting in a fishery HG of 2,587 mt.

[z] Sablefish north of 36° N lat. The 40–10 adjustment is applied to the ABC to derive a coastwide ACL value because the stock is in the precautionary zone. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N lat., using the 2003–2014 average estimated swept area biomass from the NMFS NWFSC trawl survey, with 73.8 percent apportioned north of 36° N lat. and 26.2 percent apportioned south of 36° N lat. The northern ACL is 5,606 mt and is reduced by 561 mt for the Tribal allocation (10 percent of the ACL north of 36° N lat.). The 561 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

[aa] Sablefish south of 36° N lat. The ACL for the area south of 36° N lat. is 1,990 mt (26.2 percent of the calculated coastwide ACL value). 4.2 mt is deducted from the ACL to accommodate the incidental open access fishery (1.8 mt) and research catch (2.4 mt), resulting in a fishery HG of 1,986 mt.

[bb] Shortbelly rockfish. 17.2 mt is deducted from the ACL to accommodate the incidental open access fishery (8.9 mt), EFP catch (0.1 mt), and research catch (8.2 mt), resulting in a fishery HG of 483 mt.

[cc] Shortspine thornyhead north of 34°27′ N lat. 65.3 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (4.7 mt), EFP catch (0.1 mt), and research catch (10.5 mt), resulting in a fishery HG of 1,618 mt for the area north of 34°27′ N lat.

[dd] Shortspine thornyhead south of 34°27′ N lat. 1.2 mt is deducted from the ACL to accommodate the incidental open access fishery (0.5 mt) and research catch (0.7 mt), resulting in a fishery HG of 889 mt for the area south of 34°27′ N lat.

[ee] Spiny dogfish. 333 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), the incidental open access fishery (22.6 mt), EFP catch (1.1 mt), and research catch (34.3 mt), resulting in a fishery HG of 1,738 mt.

[ff] Splitnose rockfish south of 40°10′ N lat. Splitnose rockfish in the north is managed in the Slope Rockfish complex and with stock-specific harvest specifications south of 40°10′ N lat. 16.6 mt is deducted from the ACL to accommodate the incidental open access fishery (5.8 mt), research catch (9.3 mt) and EFP catch (1.5 mt), resulting in a fishery HG of 1,733 mt.

[gg] Starry flounder. 18.8 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), EFP catch (0.1 mt), research catch (0.6 mt), and the incidental open access fishery (16.1 mt), resulting in a fishery HG of 433 mt.

[hh] Widow rockfish. 248.4 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (3.1 mt), EFP catch (28 mt) and research catch (17.3 mt), resulting in a fishery HG of 11,583 mt.

[ii] Yellowtail rockfish north of 40°10′ N lat. 1,045.1 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), the incidental open access fishery (4.5 mt), EFP catch (20 mt) and research catch (20.6 mt), resulting in a fishery HG of 5,234 mt.

[jj] Black rockfish/Blue rockfish/Deacon rockfish (Oregon). 1.2 mt is deducted from the ACL to accommodate the incidental open access fishery (0.3 mt) and EFP catch (0.9 mt), resulting in a fishery HG of 616 mt.

[kk] Cabezon/kelp greenling (Oregon). 0.2 mt is deducted from the ACL to accommodate EFP catch, resulting in a fishery HG of 218 mt.

[ll] Cabezon/kelp greenling (Washington). There are no deductions from the ACL so the fishery HG is equal to the ACL of 11 mt.

[mm] Nearshore Rockfish north of 40°10′ N lat. 2.8 mt is deducted from the ACL to accommodate the Tribal fishery (1.5 mt), EFP fishing (0.1 mt), research catch (0.3 mt) and the incidental open access fishery (0.9 mt), resulting in a fishery HG of 79 mt.

[nn] Shelf Rockfish north of 40°10′ N lat. 76.9 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (17.7 mt), EFP catch (4.5 mt), and research catch (24.7 mt), resulting in a fishery HG of 1,977 mt.

[oo] Slope Rockfish north of 40°10′ N lat. 80.8 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), the incidental open access fishery (21.7 mt), EFP catch (1.5 mt), and research catch (21.6 mt), resulting in a fishery HG of 1,665 mt.

[pp] Nearshore Rockfish south of 40°10′ N lat. 4.1 mt is deducted from the ACL to accommodate the incidental open access fishery (1.4 mt) and research catch (2.7 mt), resulting in a fishery HG of 1,138 mt.

[qq] Shelf Rockfish south of 40°10′ N lat. 79.1 mt is deducted from the ACL to accommodate the incidental open access fishery (4.6 mt), EFP catch (60 mt), and research catch (14.5 mt), resulting in a fishery HG of 1,546 mt.

[rr] Slope Rockfish south of 40°10′ N lat. 20.2 mt is deducted from the ACL to accommodate the incidental open access fishery (16.9 mt), EFP catch (1 mt), and research catch (2.3 mt), resulting in a fishery HG of 724 mt. Blackgill rockfish has a stock-specific HG for the entire groundfish fishery south of 40°10′ N lat. set equal to the species' contribution to the 40–10-adjusted ACL. Harvest of blackgill rockfish in all groundfish fisheries south of 40°10′ N lat. counts against this HG of 159 mt.

[ss] Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with stock-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed and include: Butter sole, curlfin sole, flathead sole, Pacific sanddab, rock sole, sand sole, and rex sole. 249.5 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), the incidental open access fishery (161.6 mt), EFP fishing (0.1 mt), and research catch (27.8 mt), resulting in a fishery HG of 6,249 mt.

[tt] Other Fish. The Other Fish complex is comprised of kelp greenling off California and leopard shark coastwide. 8.9 mt is deducted from the ACL to accommodate the incidental open access fishery (8.8 mt) and research catch (0.1 mt), resulting in a fishery HG of 230 mt.

TABLE 1b TO PART 660, SUBPART C—2019, ALLOCATIONS BY SPECIES OR SPECIES GROUP

[Weight in metric tons]

Stocks/stock complexes	Area	Fishery HG or ACT[a b]	Trawl		Non-trawl	
			%	Mt	%	Mt
Arrowtooth flounder	Coastwide	13,479.1	95	12,805.1	5	674.0
Big skate[a]	Coastwide	452.1	95	429.5	5	22.6
Bocaccio[a]	S of 40°10′ N lat	2,050.9	39	800.7	61	1,250.2
Canary rockfish[a c]	Coastwide	1,382.9	72	999.6	28	383.3
Chilipepper rockfish	S of 40°10′ N lat	2,451.1	75	1,838.3	25	612.8
COWCOD[a b]	S of 40°10′ N lat	6.0	36	2.2	64	3.8
Darkblotched rockfish[d]	Coastwide	731.2	95	694.6	5	36.6
Dover sole	Coastwide	48,404.4	95	45,984.2	5	2,420.2
English sole	Coastwide	9,873.8	95	9,380.1	5	493.7
Lingcod	N of 40′10° N lat	4,593.0	45	2,066.9	55	2,526.2

TABLE 1b TO PART 660, SUBPART C—2019, ALLOCATIONS BY SPECIES OR SPECIES GROUP—Continued

[Weight in metric tons]

Stocks/stock complexes	Area	Fishery HG or ACT [a] [b]	Trawl		Non-trawl	
			%	Mt	%	Mt
Lingcod	S of 40′10° N lat	1,027.7	45	462.5	55	565.2
Longnose skate [a]	Coastwide	1,851.7	90	1,666.5	10	185.2
Longspine thornyhead	N of 34°27′ N lat	2,552.6	95	2,425.0	5	127.6
Pacific cod	Coastwide	1,093.8	95	1,039.1	5	54.7
Pacific whiting	Coastwide	TBD	100	TBD	0	TBD
Pacific ocean perch [e]	N of 40°10′ N lat	4,317.6	95	4,101.7	5	215.9
Petrale sole	Coastwide	2,587.4	95	2,458.0	5	129.4
Sablefish	N of 36° N lat	NA	See Table 1c			
Sablefish	S of 36° N lat	1,985.8	42	834.0	58	1,151.8
Shortspine thornyhead	N of 34°27′ N lat	1,617.7	95	1,536.8	5	80.9
Shortspine thornyhead	S of 34°27′ N lat	888.8	NA	50.0	NA	838.8
Splitnose rockfish	S of 40°10′ N lat	1,733.4	95	1,646.7	5	86.7
Starry flounder	Coastwide	433.2	50	216.6	50	216.6
Widow rockfish [f]	Coastwide	11,582.6	91	10,540.2	9	1,042.4
YELLOWEYE ROCKFISH	Coastwide	41.9	8	3.4	92	38.6
Yellowtail rockfish	N of 40°10′ N lat	5,233.9	88	4,605.8	12	628.1
Minor Shelf Rockfish North [a].	N of 40°10′ N lat	1,977.1	60.2	1,190.2	39.8	786.9
Minor Shelf Rockfish South [a].	S of 40°10′ N lat	1,545.9	12.2	188.6	87.8	1,357.3
Minor Slope Rockfish North	N of 40°10′ N lat	1,665.2	81	1,348.8	19	316.4
Minor Slope Rockfish South.	S of 40°10′ N lat	723.8	63	456.0	37	267.8
Other Flatfish	Coastwide	6,248.5	90	5,623.7	10	624.9

[a] Allocations decided through the biennial specification process.
[b] The cowcod fishery harvest guideline is further reduced to an ACT of 6.0 mt.
[c] 46 mt of the total trawl allocation of canary rockfish is allocated to the MS and C/P sectors, as follows: 30 mt for the MS sector, and 16 mt for the C/P sector.
[d] Consistent with regulations at § 660.55(c), 9 percent (62.5 mt) of the total trawl allocation for darkblotched rockfish is allocated to the Pacific whiting fishery, as follows: 26.3 mt for the Shorebased IFQ Program, 15.0 mt for the MS sector, and 21.3 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).
[e] Consistent with regulations at § 660.55(c), 17 percent (697.3 mt) of the total trawl allocation for Pacific ocean perch is allocated to the Pacific whiting fishery, as follows: 292.9 mt for the Shorebased IFQ Program, 167.4 mt for the MS sector, and 237.1 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).
[f] Consistent with regulations at § 660.55(c), 10 percent (1,054 mt) of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 442.7 mt for the shorebased IFQ fishery, 253 mt for the mothership fishery, and 358.4 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

TABLE 1c TO PART 660, SUBPART C—SABLEFISH NORTH OF 36° N LAT. ALLOCATIONS, 2019

Year	ACL	Set-asides		Recreational estimate	EFP	Commercial HG	Limited Entry HG		Open Access HG	
		Tribal [a]	Research				Percent	mt	Percent	mt [b]
2019	5,606	561	30.68	6	1.1	5,007	90.6	4,537	9.4	471

Year	LE All	Limited entry trawl [c]			Limited entry fixed gear [d]		
		All trawl	At-sea whiting	Shorebased IFQ	All FG	Primary	DTL
2019	4,537	2,631	50	2,581	1,905	1,620	286

[a] The tribal allocation is further reduced by 1.5 percent for discard mortality resulting in 553 mt in 2019.
[b] The open access HG is taken by the incidental OA fishery and the directed OA fishery.
[c] The trawl allocation is 58 percent of the limited entry HG.
[d] The limited entry fixed gear allocation is 42 percent of the limited entry HG.

TABLE 1d TO PART 660, SUBPART C—AT-SEA WHITING FISHERY ANNUAL SET-ASIDES, 2019

Stock or stock complex	Area	Set aside (mt)
COWCOD	S of 40°10 N lat	NA.
YELLOWEYE ROCKFISH	Coastwide	0.
Arrowtooth flounder	Coastwide	70.
Bocaccio	S of 40°10 N lat	NA.
Canary rockfish [a]	Coastwide	Allocation.
Chilipepper rockfish	S of 40°10 N lat	NA.
Darkblotched rockfish [b]	Coastwide	36.3.
Dover sole	Coastwide	5.

TABLE 1d TO PART 660, SUBPART C—AT-SEA WHITING FISHERY ANNUAL SET-ASIDES, 2019—Continued

Stock or stock complex	Area	Set aside (mt)
English sole	Coastwide	5.
Lingcod	N of 40°10 N lat	15.
Lingcod	S of 40°10 N lat	NA.
Longnose skate	Coastwide	5.
Longspine thornyhead	N of 34°27 N lat	5.
Longspine thornyhead	S of 34°27 N lat	NA.
Minor Nearshore Rockfish	N of 40°10 N lat	NA.
Minor Nearshore Rockfish	S of 40°10 N lat	NA.
Minor Shelf Rockfish	N of 40°10 N lat	35.
Minor Shelf Rockfish	S of 40°10 N lat	NA.
Minor Slope Rockfish	N of 40°10 N lat	100.
Minor Slope Rockfish	S of 40°10 N lat	NA.
Other Fish	Coastwide	NA.
Other Flatfish	Coastwide	20.
Pacific cod	Coastwide	5.
Pacific Halibut[c]	Coastwide	10.
Pacific ocean perch[d]	N of 40°10 N lat	404.5.
Pacific Whiting	Coastwide	Allocation.
Petrale sole	Coastwide	5.
Sablefish	N of 36° N lat	50.
Sablefish	S of 36° N lat	NA.
Shortspine thornyhead	N of 34°27 N lat	30.
Shortspine thornyhead	S of 34°27 N lat	NA.
Starry flounder	Coastwide	5.
Widow rockfish[a]	Coastwide	Allocation.
Yellowtail rockfish	N of 40°10 N lat	300.

[a] See Table 1b to this subpart for the at-sea whiting allocations for these species.
[b] Darkblotched rockfish will be managed as set-asides for the MS and C/P sectors based on pro-rata distribution described at § 660.55(c)(1)(i)(A), resulting in a set-aside of 15.0 mt for the MS sector, and a set-aside of 21.3 mt for the C/P sector.
[c] As stated in § 660.55(m), the Pacific halibut set-aside is 10 mt, to accommodate bycatch in the at-sea Pacific whiting fisheries and in the shorebased trawl sector south of 40°10 N lat. (estimated to be approximately 5 mt each).
[d] Pacific ocean perch will be managed as set-asides for the MS and C/P sectors based on pro-rata distribution described at § 660.55(c)(1)(i)(B), resulting in a set-aside of 167.4 mt for the MS sector, and a set-aside of 237.1 mt for the C/P sector.

■ 11. Tables 2a to part 660, subpart C, through 2d to part 660, subpart C, are revised to read as follows:

Sec.

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Table 2a to Part 660, Subpart C—2020, and Beyond, SpecificatioN of OFL, ABC, ACL, ACT and Fishery Harvest Guidelines (Weights in Metric Tons)

Table 2b to Part 660, Subpart C—2020, and Beyond, Allocations by Species or Species Group [Weight in Metric Tons]

Table 2c to Part 660, Subpart C—Sablefish North of 36° N lat. Allocations, 2020 and Beyond

Table 2d to Part 660, Subpart C—At-Sea Whiting Fishery Annual Set-Asides, 2020 and Beyond

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TABLE 2a TO PART 660, SUBPART C—2020, AND BEYOND, SPECIFICATIoN OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES

[Weights in metric tons]

Stocks/stock complexes	Area	OFL	ABC	ACL[a]	Fishery HG[b]
COWCOD[c]	S of 40°10′ N lat	76	68	10	8.
COWCOD	(Conception)	62	57	NA	NA.
COWCOD	(Monterey)	13	11	NA	NA.
YELLOWEYE ROCKFISH[d]	Coastwide	84	77	49	43.
Arrowtooth Flounder[e]	Coastwide	15,306	12,750	12,750	10,655.
Big Skate[f]	Coastwide	541	494	494	452.
Black Rockfish[g]	California (S of 42° N lat.)	341	326	326	325.
Black Rockfish[h]	Washington (N of 46°16′ N lat.)	311	297	297	279.
Bocaccio[i]	S of 40°10′ N lat	2,104	2,011	2,011	1,965.
Cabezon[j]	California (S of 42° N lat.)	153	146	146	146.
California Scorpionfish[k]	S of 34°27′ N lat	331	307	307	305.
Canary Rockfish[l]	Coastwide	1,431	1,368	1,368	1,301.
Chilipepper Rockfish[m]	S of 40°10′ N lat	2,521	2,410	2,410	2,325.
Darkblotched Rockfish[n]	Coastwide	853	815	815	781.
Dover Sole[o]	Coastwide	92,048	87,998	50,000	48,404.
English Sole[p]	Coastwide	11,101	10,135	10,135	9,919.
Lingcod[q]	N of 40°10′ N lat	4,768	4,558	4,541	4,263.
Lingcod[r]	S of 40°10′ N lat	977	934	869	858.
Longnose Skate[s]	Coastwide	2,474	2,365	2,000	1,852.
Longspine Thornyhead[t]	N of 34°27′ N lat	3,901	3,250	2,470	2,420.
Longspine Thornyhead[u]	S of 34°27′ N lat			780	779.
Pacific Cod[v]	Coastwide	3,200	2,221	1,600	1,094.

TABLE 2a TO PART 660, SUBPART C—2020, AND BEYOND, SPECIFICATION OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES—Continued

[Weights in metric tons]

Stocks/stock complexes	Area	OFL	ABC	ACL [a]	Fishery HG [b]
Pacific Whiting [w]	Coastwide	(w)	(w)	(w)	(w)
Pacific Ocean Perch [x]	N of 40°10′ N lat	4,632	4,229	4,229	4,207.
Petrale Sole [y]	Coastwide	2,976	2,845	2,845	2,524.
Sablefish [z]	N of 36° N lat	8,648	7,896	5,723	See Table 2c.
Sablefish [aa]	S of 36° N lat			2,032	2,028.
Shortbelly Rockfish [bb]	Coastwide	6,950	5,789	500	483.
Shortspine Thornyhead [cc]	N of 34°27′ N lat	3,063	2,551	1,669	1,604.
Shortspine Thornyhead [dd]	S of 34°27′ N lat			883	882.
Spiny Dogfish [ee]	Coastwide	2,472	2,059	2,059	1,726.
Splitnose Rockfish [ff]	S of 40°10′ N lat	1,810	1,731	1,731	1,714.
Starry Flounder [gg]	Coastwide	652	452	452	433.
Widow Rockfish [hh]	Coastwide	11,714	11,199	11,199	10,951.
Yellowtail Rockfish [ii]	N of 40°10′ N lat	6,261	5,986	5,986	4,941.
Black Rockfish/Blue Rockfish/Deacon Rockfish [jj]	Oregon (Between 46°16′ N lat. and 42° N lat.).	670	611	611	609.
Cabezon/Kelp Greenling [kk]	Oregon (Between 46°16′ N lat. and 42° N lat.).	216	204	204	204.
Cabezon/Kelp Greenling [ll]	Washington (N of 46°16′ N lat.)	12	10	10	10.
Nearshore Rockfish [mm]	N of 40°10′ N lat	92	82	82	79.
Shelf Rockfish [nn]	N of 40°10′ N lat	2,302	2,048	2,048	1,971.
Slope Rockfish [oo]	N of 40°10′ N lat	1,873	1,732	1,732	1,651.
Nearshore Rockfish [pp]	S of 40°10′ N lat	1,322	1,165	1,163	1,159.
Shelf Rockfish [qq]	S of 40°10′ N lat	1,919	1,626	1,625	1,546.
Slope Rockfish [rr]	S of 40°10′ N lat	855	743	743	723.
Other Flatfish [ss]	Coastwide	8,202	6,041	6,041	5,792.
Other Fish [tt]	Coastwide	286	239	239	230.

[a] Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

[b] Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

[c] Cowcod south of 40°10′ N lat. 2 mt is deducted from the ACL to accommodate EFP fishing (less than 0.1 mt) and research activity (2 mt), resulting in a fishery HG of 8 mt. Any additional mortality in research activities will be deducted from the ACL. A single ACT of 6 mt is being set for the Conception and Monterey areas combined.

[d] Yelloweye rockfish. The 49 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2029 and an SPR harvest rate of 65 percent. 6.1 mt is deducted from the ACL to accommodate the Tribal fishery (2.3 mt), the incidental open access fishery (0.62 mt), EFP catch (0.24 mt) and research catch (2.92 mt), resulting in a fishery HG of 43 mt. The non-trawl HG is 39.5 mt. The non-nearshore HG is 2.1 mt and the nearshore HG is 6.2 mt. Recreational HGs are: 10.2 mt (Washington); 9.1 mt (Oregon); and 11.9 mt (California). In addition, there are the following ACTs: Non-nearshore (1.7 mt), nearshore (4.9 mt), Washington recreational (8.1 mt), Oregon recreational (7.2 mt), and California recreational (9.4 mt).

[e] Arrowtooth flounder. 2,094.9 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), the incidental open access fishery (40.8 mt), EFP fishing (0.1 mt), and research catch (13 mt), resulting in a fishery HG of 10,655 mt.

[f] Big skate. 41.9 mt is deducted from the ACL to accommodate the Tribal fishery (15 mt), the incidental open access fishery (21.3 mt), EFP fishing (0.1 mt), and research catch (5.5 mt), resulting in a fishery HG of 452 mt.

[g] Black rockfish (California). 1.3 mt is deducted from the ACL to accommodate EFP fishing (1.0 mt) and the incidental open access fishery (0.3 mt), resulting in a fishery HG of 325 mt.

[h] Black rockfish (Washington). 18.1 mt is deducted from the ACL to accommodate the Tribal fishery (18 mt) and research catch (0.1 mt), resulting in a fishery HG of 279 mt.

[i] Bocaccio south of 40°10′ N lat. The stock is managed with stock-specific harvest specifications south of 40°10′ N lat. and within the Minor Shelf Rockfish complex north of 40°10′ N lat. 46.1 mt is deducted from the ACL to accommodate the incidental open access fishery (0.5 mt), EFP catch (40 mt) and research catch (5.6 mt), resulting in a fishery HG of 1,965 mt. The California recreational fishery has an HG of 827.2 mt.

[j] Cabezon (California). 0.3 mt is deducted from the ACL to accommodate the incidental open access fishery, resulting in a fishery HG of 146 mt.

[k] California scorpionfish south of 34°27′ N lat. 2.4 mt is deducted from the ACL to accommodate the incidental open access fishery (2.2 mt) and research catch (0.2 mt), resulting in a fishery HG of 305 mt.

[l] Canary rockfish. 67.1 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (1.3 mt), EFP catch (8 mt), and research catch (7.8 mt), resulting in a fishery HG of 1,301 mt. Recreational HGs are: 44.3 mt (Washington); 66.5 mt (Oregon); and 119.7 mt (California).

[m] Chilipepper rockfish south of 40°10′ N lat. Chilipepper are managed with stock-specific harvest specifications south of 40°10′N lat. and within the Minor Shelf Rockfish complex north of 40°10′ N lat. 84.9 mt is deducted from the ACL to accommodate the incidental open access fishery (11.5 mt), EFP fishing (60 mt), and research catch (13.4 mt), resulting in a fishery HG of 2,325 mt.

[n] Darkblotched rockfish. 33.8 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), the incidental open access fishery (24.5 mt), EFP catch (0.6 mt), and research catch (8.5 mt) resulting in a fishery HG of 781 mt.

[o] Dover sole. 1,595.6 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), the incidental open access fishery (49.3 mt), EFP fishing (0.1 mt), and research catch (49.2 mt), resulting in a fishery HG of 48,404 mt.

[p] English sole. 216.2 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (8.1 mt), EFP fishing (0.1 mt), and research catch (8 mt), resulting in a fishery HG of 9,919 mt.

[q] Lingcod north of 40°10′ N lat. 278 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (9.8 mt), EFP catch (1.6 mt) and research catch (16.6 mt), resulting in a fishery HG of 4,263 mt.

[r] Lingcod south of 40°10′ N lat. 11.3 mt is deducted from the ACL to accommodate the incidental open access fishery (8.1 mt) and research catch (3.2 mt), resulting in a fishery HG of 858 mt.

[s] Longnose skate. 148.3 mt is deducted from the ACL to accommodate the Tribal fishery (130 mt), incidental open access fishery (5.7 mt), EFP catch (0.1 mt), and research catch (12.5 mt), resulting in a fishery HG of 1,852 mt.

[t] Longspine thornyhead. 50.4 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (6.2 mt), and research catch (14.2 mt), resulting in a fishery HG of 2,420 mt.

[u] Longspine thornyhead south of 34°27′ N lat. 1.4 mt is deducted from the ACL to research catch, resulting in a fishery HG of 779 mt.

[v] Pacific cod. 506.2 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), EFP catch (0.1 mt), research catch (5.5 mt), and the incidental open access fishery (0.6 mt), resulting in a fishery HG of 1,094 mt.

[w] Pacific whiting. Pacific whiting are assessed annually. The final specifications will be determined consistent with the U.S.-Canada Pacific Whiting Agreement and will be announced after the Council's April 2020 meeting.

[x] Pacific ocean perch north of 40°10′ N lat. 22.4 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), the incidental open access fishery (10 mt), EFP fishing (0.1 mt), and research catch (3.1 mt)-resulting in a fishery HG of 4,207 mt.

[y] Petrale sole. 320.6 mt is deducted from the ACL to accommodate the Tribal fishery (290 mt), the incidental open access fishery (6.4 mt), EFP catch (0.1 mt), and research catch (24.1 mt), resulting in a fishery HG of 2,524 mt.

[z] Sablefish north of 36° N lat. The 40–10 adjustment is applied to the ABC to derive a coastwide ACL value because the stock is in the precautionary zone. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N lat., using the 2003–2014 average estimated swept area biomass from the NMFS NWFSC trawl survey, with 73.8 percent apportioned north of 36° N lat. and 26.2 percent apportioned south of 36° N lat. The northern ACL is 5,723 mt and is reduced by 572 mt for the Tribal allocation (10 perceN of the ACL north of 36° N lat.). The 572 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 2c.

[aa] Sablefish south of 36° N lat. The ACL for the area south of 36° N lat. is 2,032 mt (26.2 perceN of the calculated coastwide ACL value). 4.2 mt is deducted from the ACL to accommodate the incidental open access fishery (1.8 mt) and research catch (2.4 mt), resulting in a fishery HG of 2,028 mt.

[bb] Shortbelly rockfish. 17.2 mt is deducted from the ACL to accommodate the incidental open access fishery (8.9 mt), EFP catch (0.1 mt), and research catch (8.2 mt), resulting in a fishery HG of 483 mt.

[cc] Shortspine thornyhead north of 34°27′ N lat. 65.3 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (4.7 mt), EFP catch (0.1 mt), and research catch (10.5 mt), resulting in a fishery HG of 1,604 mt for the area north of 34°27′ N lat.

[dd] Shortspine thornyhead south of 34°27′ N lat. 1.2 mt is deducted from the ACL to accommodate the incidental open access fishery (0.5 mt) and research catch (0.7 mt), resulting in a fishery HG of 882 mt for the area south of 34°27′ N lat.

[ee] Spiny dogfish. 333 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), the incidental open access fishery (22.6 mt), EFP catch (1.1 mt), and research catch (34.3 mt), resulting in a fishery HG of 1,726 mt.

[ff] Splitnose rockfish south of 40°10′ N lat. Splitnose rockfish in the north is managed in the Slope Rockfish complex and with stock-specific harvest specifications south of 40°10′ N lat. 16.6 mt is deducted from the ACL to accommodate the incidental open access fishery (5.8 mt), research catch (9.3 mt) and EFP catch (1.5 mt), resulting in a fishery HG of 1,714 mt.

[gg] Starry flounder. 18.8 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), EFP catch (0.1 mt), research catch (0.6 mt), and the incidental open access fishery (16.1 mt), resulting in a fishery HG of 433 mt.

[hh] Widow rockfish. 248.4 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (3.1 mt), EFP catch (28 mt) and research catch (17.3 mt), resulting in a fishery HG of 10,951 mt.

[ii] Yellowtail rockfish north of 40°10′ N lat. 1,045.1 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), the incidental open access fishery (4.5 mt), EFP catch (20 mt) and research catch (20.6 mt), resulting in a fishery HG of 4,941 mt.

[jj] Black rockfishBlue rockfishDeacon rockfish (Oregon). 1.2 mt is deducted from the ACL to accommodate the incidental open access fishery (0.3 mt) and EFP catch (0.9 mt), resulting in a fishery HG of 609 mt.

[kk] CabezonKelp greenling (Oregon). 0.2 mt is deducted from the ACL to accommodate EFP catch, resulting in a fishery HG of 204 mt.

[ll] CabezonKelp greenling (Washington). There are no deductions from the ACL so the fishery HG is equal to the ACL of 10 mt.

[mm] Nearshore Rockfish north of 40°10′ N lat. 2.8 mt is deducted from the ACL to accommodate the Tribal fishery (1.5 mt), EFP catch (0.1 mt), research catch (0.3), and the incidental open access fishery (0.9 mt), resulting in a fishery HG of 79 mt.

[nn] Shelf Rockfish north of 40°10′ N lat. 76.9 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (17.7 mt), EFP catch (4.5 mt), and research catch (24.7 mt), resulting in a fishery HG of 1,971 mt.

[oo] Slope Rockfish north of 40°10′ N lat. 80.8 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), the incidental open access fishery (21.7 mt), EFP catch (1.5 mt), and research catch (21.6 mt), resulting in a fishery HG of 1,651 mt.

[pp] Nearshore Rockfish south of 40°10′ N lat. 4.1 mt is deducted from the ACL to accommodate the incidental open access fishery (1.4 mt) and research catch (2.7 mt), resulting in a fishery HG of 1,159 mt.

[qq] Shelf Rockfish south of 40°10′ N lat. 79.1 mt is deducted from the ACL to accommodate the incidental open access fishery (4.6 mt), EFP catch (60 mt), and research catch (14.5 mt), resulting in a fishery HG of 1,546 mt.

[rr] Slope Rockfish south of 40°10′ N lat. 20.2 mt is deducted from the ACL to accommodate the incidental open access fishery (16.9 mt), EFP catch (1 mt), and research catch (2.3 mt), resulting in a fishery HG of 723 mt. Blackgill rockfish has a stock-specific HG for the entire groundfish fishery south of 40°10′ N lat. set equal to the species' contribution to the 40–10-adjusted ACL. HarveS of blackgill rockfish in all groundfish fisheries south of 40°10′ N lat. counts against this HG of 159 mt.

[ss] Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with stock-specific OFLs/ABCs/ACLs. MoS of the species in the Other Flatfish complex are unassessed and include: butter sole, curlfin sole, flathead sole, Pacific sanddab, rock sole, sand sole, and rex sole. 249.5 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), the incidental open access fishery (161.6 mt), EFP fishing (0.1 mt), and research catch (27.8 mt), resulting in a fishery HG of 5,792 mt.

[tt] Other Fish. The Other Fish complex is comprised of kelp greenliN off California and leopard shark coastwide. 8.9 mt is deducted from the ACL to accommodate the incidental open access fishery (8.8 mt) and research catch (0.1 mt), resulting in a fishery HG of 230 mt.

TABLE 2b TO PART 660, SUBPART C—2020, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP

[Weight in metric tons]

Stocks/stock complexes	Area	Fishery HG or ACT[a b]	Trawl		Non-trawl	
			%	Mt	%	Mt
Arrowtooth flounder	Coastwide	10,655.1	95	10,122.3	5	532.8
Big skate[a]	Coastwide	452.1	95	429.5	5	22.6
Bocaccio[a]	S of 40°10′ N lat	1,964.9	39	767.1	61	1,197.8
Canary rockfish[a d]	Coastwide	1,300.9	72	940.3	28	360.6
Chilipepper rockfish	S of 40°10′ N lat	2,325.1	75	1,743.8	25	581.3
COWCOD[a b]	S of 40°10′ N lat	6.0	36	2.2	64	3.8
Darkblotched rockfish[c]	Coastwide	781.2	95	742.1	5	39.1
Dover sole	Coastwide	48,404.4	95	45,984.2	5	2,420.2
English sole	Coastwide	9,918.8	95	9,422.9	5	495.9
Lingcod	N of 40′10° N lat	4,263.0	45	1,918.4	55	2,344.7
Lingcod	S of 40′10° N lat	857.7	45	386.0	55	471.7
Longnose skate[a]	Coastwide	1,851.7	90	1,666.5	10	185.2
Longspine thornyhead	N of 34°27′ N lat	2,419.6	95	2,298.6	5	121.0
Pacific cod	Coastwide	1,093.8	95	1,039.1	5	54.7
Pacific whiting	Coastwide	TBD	100	[f]	0	TBD

TABLE 2b TO PART 660, SUBPART C—2020, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP—Continued

[Weight in metric tons]

Stocks/stock complexes	Area	Fishery HG or ACT[a b]	Trawl		Non-trawl	
			%	Mt	%	Mt
Pacific ocean perch[e]	N of 40°10′ N lat	4,206.6	95	3,996.3	5	210.3
Petrale sole	Coastwide	2,524.4	95	2,398.2	5	126.2
Sablefish	N of 36° N lat	NA	See Table 2c			
Sablefish	S of 36° N lat	2,027.8	42	851.7	58	1,176.1
Shortspine thornyhead	N of 34°27′ N lat	1,603.7	95	1,523.5	5	80.2
Shortspine thornyhead	S of 34°27′ N lat	881.8	NA	50.0	NA	831.8
Splitnose rockfish	S of 40°10′ N lat	1,714.4	95	1,628.7	5	85.7
Starry flounder	Coastwide	433.2	50	216.6	50	216.6
Widow rockfish[f]	Coastwide	10,950.6	91	9,965.0	9	985.6
YELLOWEYE ROCKFISH	Coastwide	42.9	8	3.4	92	39.5
Yellowtail rockfish	N of 40°10′ N lat	4,940.9	88	4,348.0	12	592.9
Minor Shelf Rockfish North	N of 40°10′ N lat	1,971.1	60.2	1,186.6	39.8	784.5
Minor Shelf Rockfish South	S of 40°10′ N lat	1,545.9	12.2	188.6	87.8	1,357.3
Minor Slope Rockfish North	N of 40°10′ N lat	1,651.2	81	1,337.5	19	313.7
Minor Slope Rockfish South	S of 40°10′ N lat	722.8	63	455.4	37	267.4
Other Flatfish	Coastwide	5,791.5	90	5,212.4	10	579.2

[a] Allocations decided through the biennial specification process.
[b] The cowcod fishery harvest guideline is further reduced to an ACT of 6.0 mt.
[c] 46 mt of the total trawl allocation of canary rockfish is allocated to the MS and C/P sectors, as follows: 30 mt for the MS sector, and 16 mt for the C/P sector.
[d] Consistent with regulations at § 660.55(c), 9 percent (66.8 mt) of the total trawl allocation for darkblotched rockfish is allocated to the Pacific whiting fishery, as follows: 28.1 mt for the Shorebased IFQ Program, 16.0 mt for the MS sector, and 22.7 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).
[e] Consistent with regulations at § 660.55(c), 17 percent (679.4 mt) of the total trawl allocation for Pacific ocean perch is allocated to the Pacific whiting fishery, as follows: 285.3 mt for the Shorebased IFQ Program, 163.0 mt for the MS sector, and 231.0 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).
[f] Consistent with regulations at § 660.55(c), 10 percent (996.5 mt) of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 418.5 mt for the shorebased IFQ fishery, 239.2 mt for the mothership fishery, and 338.8 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

TABLE 2c TO PART 660, SUBPART C—SABLEFISH NORTH OF 36° N LAT. ALLOCATIONS, 2020 AND BEYOND

Year	ACL	Set-asides		Recreational estimate	EFP	Commercial HG	Limited entry HG		Open access HG	
		Tribal[a]	Research				Percent	mt	Percent	mt[b]
2020	5,723	572	30.68	6	1.1	5,113	90.6	4,632	9.4	481

Year	LE All	Limited entry trawl[c]			Limited entry fixed gear[d]		
		All trawl	At-sea whiting	Shorebased IFQ	All FG	Primary	DTL
2020	4,632	2,687	50	2,637	1,946	1,654	292

[a] The tribal allocation is further reduced by 1.5 percent for discard mortality resulting in 563 mt in 2020.
[b] The open access HG is taken by the incidental OA fishery and the directed OA fishery.
[c] The trawl allocation is 58 percent of the limited entry HG.
[d] The limited entry fixed gear allocation is 42 percent of the limited entry HG.

TABLE 2D TO PART 660, SUBPART C—AT-SEA WHITING FISHERY ANNUAL SET-ASIDES, 2020 AND BEYOND

Stock or stock complex	Area	Set aside (mt)
COWCOD	S of 40°10 N lat	NA
YELLOWEYE ROCKFISH	Coastwide	0
Arrowtooth flounder	Coastwide	70
Bocaccio	S of 40°10 N lat	NA
Canary rockfish[a]	Coastwide	Allocation
Chilipepper rockfish	S of 40°10 N lat	NA
Darkblotched rockfish[b]	Coastwide	38.7
Dover sole	Coastwide	5
English sole	Coastwide	5
Lingcod	N of 40°10 N lat	15
Lingcod	S of 40°10 N lat	NA
Longnose skate	Coastwide	5
Longspine thornyhead	N of 34°27 N lat	5
Longspine thornyhead	S of 34°27 N lat	NA
Minor Nearshore Rockfish	N of 40°10 N lat	NA

TABLE 2D TO PART 660, SUBPART C—AT-SEA WHITING FISHERY ANNUAL SET-ASIDES, 2020 AND BEYOND—Continued

Stock or stock complex	Area	Set aside (mt)
Minor Nearshore Rockfish	S of 40°10 N lat	NA
Minor Shelf Rockfish	N of 40°10 N lat	35
Minor Shelf Rockfish	S of 40°10 N lat	NA
Minor Slope Rockfish	N of 40°10 N lat	100
Minor Slope Rockfish	S of 40°10 N lat	NA
Other Fish	Coastwide	NA
Other Flatfish	Coastwide	20
Pacific cod	Coastwide	5
Pacific Halibut [c]	Coastwide	10
Pacific ocean perch [d]	N of 40°10 N lat	394
Pacific Whiting	Coastwide	Allocation
Petrale sole	Coastwide	5
Sablefish	N of 36° N lat	50
Sablefish	S of 36° N lat	NA
Shortspine thornyhead	N of 34°27 N lat	30
Shortspine thornyhead	S of 34°27 N lat	NA
Starry flounder	Coastwide	5
Widow Rockfish [a]	Coastwide	Allocation
Yellowtail rockfish	N of 40°10 N lat	300

[a] See Table 1b to this subpart for the at-sea whiting allocations for these species.
[b] Darkblotched rockfish will be managed as set-asides for the MS and C/P sectors based on pro-rata distribution described at § 660.55(c)(1)(i)(A), resulting in a set-aside of 16.0 mt for the MS sector, and a set-aside of 22.7 mt for the C/P sector.
[c] As stated in § 660.55(m), the Pacific halibut set-aside is 10 mt, to accommodate bycatch in the at-sea Pacific whiting fisheries and in the shorebased trawl sector south of 40°10 N lat. (estimated to be approximately 5 mt each).
[d] Pacific ocean perch will be managed as set-asides for the MS and C/P sectors based on pro-rata distribution described at § 660.55(c)(1)(i)(B), resulting in a set-aside of 163 mt for the MS sector, and a set-aside of 231 mt for the C/P sector.

■ 12. In § 660.130, revise paragraphs (c)(2)(ii) and (iii), (d)(1)(ii), and (e)(6) and add paragraph (e)(8) to read as follows:

§ 660.130 Trawl fishery—management measures.

* * * * *

(c) * * *

(2) * * *

(ii) *Salmon bycatch mitigation restrictions.* The use of small footrope trawl, other than selective flatfish trawl gear, is prohibited between 42° North latitude and 40°10′ North latitude.

(iii) *Salmon conservation area restrictions.* The uS of small footrope trawl, other than of selective flatfish trawl gear, is required inside the Klamath River Salmon Conservation Zone (defined at § 660.131(c)(1)) and the Columbia River Salmon Conservation Zone (defined at § 660.131(c)(2)).

* * * * *

(d) * * *

(1) * * *

(ii) *North of 40°10′ N lat.* POP, yellowtail rockfish, Washington cabezon/kelp greenling complex, Oregon cabezon/kelp greenling complex, cabezon off California; and

* * * * *

(e) * * *

(6) *Bycatch reduction areas (BRAs).* Vessels using midwater groundfish trawl gear during the applicable Pacific whiting primary season may be prohibited from fishing shoreward of a boundary line approximating the 75 fm (137 m), 100 fm (183 m), 150 fm (274 m), or 200 fm (366 m) depth contours.

* * * * *

(8) *Salmon conservation zones.* Fishing with midwater trawl gear and bottom trawl gear, other than selective flatfish trawl gear, is prohibited in the following areas:

(i) *Klamath River Salmon Conservation Zone.* The ocean area surrounding the Klamath River mouth bounded on the north by 41°38.80′ N lat. (approximately 6 nm north of the Klamath River mouth), on the west by 124°23′ W long. (approximately 12 nm from shore), and on the south by 41°26.80′ N lat. (approximately 6 nm south of the Klamath River mouth).

(ii) *Columbia River Salmon Conservation Zone.* The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46°18′ N lat. to 124°13.30′ W long., then southerly along a line of 167 True to 46°11.10′ N lat. and 124°11′ W long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty.

■ 13. In § 660.131, remove and reserve paragraph (c)(3) and add paragraph (i) to read as follows:

§ 660.131 Pacific whiting fishery management measures.

* * * * *

(i) *Salmon bycatch.* This fishery may be closed through automatic action at § 660.60(d)(1)(v) and (vi).

■ 14. In § 660.140, revise paragraphs (d)(1)(ii)(D), (e)(4)(i), (g)(1), (h)(1)(i)(A)(*3*), and (l)(2) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(D) For the trawl fishery, NMFS will issue QP based on the following shorebased trawl allocations:

IFQ species	Area	2019 Shorebased trawl allocation (mt)	2020 Shorebased trawl allocation (mt)
Arrowtooth flounder	Coastwide	12,735.1	10,052.3
Bocaccio	South of 40°10′ N lat	800.7	767.1
Canary rockfish	Coastwide	946.9	887.8

IFQ species	Area	2019 Shorebased trawl allocation (mt)	2020 Shorebased trawl allocation (mt)
Chilipepper	South of 40°10′ N lat	1,838.3	1,743.8
COWCOD	South of 40°10′ N lat	2.2	2.2
Darkblotched rockfish	Coastwide	658.4	703.4
Dover sole	Coastwide	45,979.2	45,979.2
English sole	Coastwide	9,375.1	9,417.9
Lingcod	North of 40°10′ N lat	2,051.9	1,903.4
Lingcod	South of 40°10′ N lat	462.5	386.0
Longspine thornyhead	North of 34°27′ N lat	2,420.0	2,293.6
Minor Shelf Rockfish complex	North of 40°10′ N lat	1,155.2	1,151.6
Minor Shelf Rockfish complex	South of 40°10′ N lat	188.6	188.6
Minor Slope Rockfish complex	North of 40°10′ N lat	1,248.8	1,237.5
Minor Slope Rockfish complex	South of 40°10′ N lat	456.0	455.4
Other Flatfish complex	Coastwide	5,603.7	5,192.4
Pacific cod	Coastwide	1,034.1	1,034.1
Pacific ocean perch	North of 40°10′ N lat	3,697.3	3,602.2
Pacific whiting	Coastwide	TBD	TBD
Petrale sole	Coastwide	2,453.0	2,393.2
Sablefish	North of 36° N lat.	2,581.3	2,636.8
Sablefish	South of 36° N lat	834.0	851.7
Shortspine thornyhead	North of 34°27′ N lat	1,511.8	1,498.5
Shortspine thornyhead	South of 34°27′ N lat	50.0	50.0
Splitnose rockfish	South of 40°10′ N lat	1,646.7	1,628.7
Starry flounder	Coastwide	211.6	211.6
Widow rockfish	Coastwide	9,928.8	9,387.1
YELLOWEYE ROCKFISH	Coastwide	3.4	3.4
Yellowtail rockfish	North of 40°10′ N lat	4,305.8	4,048.0

* * * * *

(e) * * *

(4) * * *

(i) *Vessel limits.* For each IFQ species or species group specified in this paragraph (e)(4)(i), vessel accounts may not have QP or IBQ pounds in excess of the annual QP vessel limit in any year. The annual QP vessel limit is calculated as all QPs transferred in minus all QPs transferred out of the vessel account.

Species category	Annual QP vessel limit (in percent)
Arrowtooth flounder	20
Bocaccio S of 40°10′ N lat	15.4
Canary rockfish	10
Chilipepper S of 40°10′ N lat	15
Cowcod S of 40°10′ N lat	17.7
Darkblotched rockfish	6.8
Dover sole	3.9
English sole	7.5
Lingcod:	
N of 40°10′ N lat	5.3
S of 40°10′ N lat	13.3
Longspine thornyhead:	
N of 34°27′ N lat	9
Minor rockfish complex N of 40°10′ N lat.:	
Shelf species	7.5
Slope species	7.5
Minor rockfish complex S of 40°10′ N lat.:	
Shelf species	13.5
Slope species	9
Other Flatfish complex	15
Pacific cod	20
Pacific halibut (IBQ) N of 40°10′ N lat	14.4
Pacific ocean perch N of 40°10′ N lat	6
Pacific whiting (shoreside)	15
Petrale sole	4.5
Sablefish:	
N of 36° N lat. (Monterey north)	4.5
S of 36° N lat. (Conception area)	15
Shortspine thornyhead:	
N of 34°27′ N lat	9
S of 34°27′ N lat	9
Splitnose rockfish S of 40°10′ N lat	15
Starry flounder	20
Widow rockfish	8.5

Species category	Annual QP vessel limit (in percent)
Yelloweye rockfish	11.4
Yellowtail rockfish N of 40°10′ N lat	7.5
Non-whiting groundfish species	3.2

* * * * *

(g) * * *

(1) *General.* Shorebased IFQ Program vessels may discard IFQ species/species groups, and the discard mortality must be accounted for and deducted from QP in the vessel account. With the exception of vessels on Pacific whiting IFQ trips engaged in maximized retention, prohibited and protected species must be discarded at sea; Pacific halibut must be discarded as soon as practicable and the discard mortality must be accounted for and deducted from IBQ pounds in the vessel account. Non-IFQ species and non-groundfish species may be discarded at sea. The sorting of catch, the weighing and discarding of any IBQ and IFQ species, and the retention of IFQ species must be monitored by the observer.

* * * * *

(h) * * *

(1) * * *

(i) * * *

(A) * * *

(*3*) Is exempt from the requirement to maintain observer coverage as specified in this paragraph (h) while remaining docked in port when the observer makes available to the catch monitor an Observer Program reporting form documenting the weight and number of any overfished species listed under a rebuilding plan at § 660.40 retained during that trip and which documents any discrepancy the vessel operator and observer may have in the weights and number of the overfished species, unless modified inseason under routine management measures at § 660.60(c)(1).

* * * * *

(l) * * *

(2) *AMP QP pass through.* The 10 percent of non-whiting QS will be reserved for the AMP, but the resulting AMP QP will be issued to all QS permit owners in proportion to their non-whiting QS until an alternative use of AMP QP is implemented.

■ 15. In § 660.150, revise paragraph (c)(1)(ii) to read as follows:

§ 660.150 Mothership (MS) Coop Program.

* * * * *

(c) * * *

(1) * * *

(ii) Species with set-asides for the MS and C/P Coop Programs, as described in Table 1d and Table 2d to subpart C of this part.

* * * * *

■ 16. In § 660.160, revise paragraph (c)(1)(ii) to read as follows:

§ 660.160 Catcher/processor (C/P) Coop Program.

* * * * *

(c) * * *

(1) * * *

(ii) Species with set-asides for the MS and C/P Programs, as described in Table 1d and Table 2d to subpart C of this part.

* * * * *

■ 17. Revise Tables 1 (North) and 1 (South) to part 660, subpart D, to read as follows:

Table 1 (North) to Part 660, Subpart D—Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10′ N Lat.

Table 1 (North) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using groundfish trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 01012019

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	North of 45°46' N. lat.	100 fm line[1/] - 150 fm line[1/]					
2	45°46' N. lat. - 40°10' N. lat.	100 fm line[1/] - modified[2/] 200 fm line[1/]					

See provisions at § 660.130 for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.

See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70 660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).

State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

3	**Minor Nearshore Rockfish, Washington Black rockfish & Oregon Black/blue/deacon rockfish**	300 lb/ month					
4	**Whiting[3/]**						
5	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
6	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
7	**Oregon Cabezon/Kelp Greenling complex**	50 lb/ month					
8	**Cabezon in California**	50 lb/ month					
9	**Shortbelly rockfish**	Unlimited					
10	**Spiny dogfish**	60,000 lb/ month					
11	**Big skate**	5,000 lb/ 2 months	25,000 lb/ 2 months	30,000 lb/ 2 months	35,000 lb/ 2 months	10,000 lb/ 2 months	5,000 lb/ 2 months
12	**Longnose skate**	Unlimited					
13	**Other Fish [4/]**	Unlimited					

TABLE 1 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ The "modified" fathom lines are modified to exclude certain petrale sole areas from the RCA.

3/ As specified at §660.131(d), when fishing in the Eureka Area, no more than 10,000 lb of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during the fishing trip, fished in the fishery management area shoreward of 100 fm contour.

4/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 1 (South) to Part 660, Subpart D—Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting South of 40°10′ N Lat.

Table 1 (South) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting South of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using groundfish trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 01012019

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:							
1	South of 40°10' N. lat.	100 fm line[1/] - 150 fm line [1/ 2/]					

See provisions at § 660.130 for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.

See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70 660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).

State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

2	**Longspine thornyhead**						
3	South of 34°27' N. lat.	24,000 lb/ 2 months					
4	**Minor Nearshore Rockfish, California Black rockfish, & Oregon Black/Blue/Deacon rockfish**	300 lb/ month					
5	**Whiting**						
6	midwater trawl	During the Primary whiting season: allowed seaward of the trawl RCA. Prohibited within and shoreward of the trawl RCA.					
7	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
8	**Cabezon**	50 lb/ month					
9	**Shortbelly rockfish**	Unlimited					
10	**Spiny dogfish**	60,000 lb/ month					
11	**Big skate**	5,000 lb/ 2 months	25,000 lb/ 2 months	30,000 lb/ 2 months	35,000 lb/ 2 months	10,000 lb/ 2 months	5,000 lb/ 2 months
12	**Longnose skate**	Unlimited					
13	**California scorpionfish**	Unlimited					
14	**Other Fish [3/]**	Unlimited					

TABLE 1 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ South of 34°27' N. lat., the RCA is 100 fm line - 150 fm line along the mainland coast; shoreline - 150 fm line around islands.

3/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 18. In § 660.230, revise paragraphs (c)(2)(ii) and (d)(10)(ii) and add paragraph (f) to read as follows:

§ 660.230 Fixed gear fishery—management measures.

* * * * *

(c) * * *

(2) * * *

(ii) *North of 40°10′ N lat.*—POP, yellowtail rockfish, cabezon (California), Washington cabezon/kelp greenling complex, Oregon cabezon/kelp greenling complex; and

* * * * *

(d) * * *

(10) * * *

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 40 fm (73 m) depth contour within the CCAs when trip limits authorize such fishing and provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE.

* * * * *

(f) *Salmon bycatch.* This fishery may be closed through automatic action at § 660.60(d)(1)(v) and (vi).

■ 19. In § 660.231, revise paragraph (b)(3)(i) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to fish in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel (*i.e.,* stacked permits). If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under § 660.232. In 2019, the following annual limits are in effect: Tier 1 at 47,637 lbs (21,608 kg), Tier 2 at 21,653 lbs (9,822 kg), and Tier 3 at 12,373 lbs (5,612 kg). In 2020 and beyond, the following annual limits are in effect: Tier 1 at 48,642 lbs (22,064 kg), Tier 2 at 22,110 lbs (10,029 kg), and Tier 3 at 12,634 lbs (5,731 kg).

* * * * *

■ 20. Revise Tables 2 (North) and 2 (South) to part 660, subpart E, to read as follows:

Table 2 (North) to Part 660, Subpart E—Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10′ N Lat.

Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 01012019

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	4,000 lb/ 2 month					
5	**Pacific ocean perch**	1,800 lb/ 2 months					
6	**Sablefish**	1,300 lb/week, not to exceed 3,900 lb/ 2 months					
7	**Longspine thornyhead**	10,000 lb/ 2 months					
8	**Shortspine thornyhead**	2,000 lb/ 2 months			2,500 lb/ 2 months		
9 10 11 12 13 14	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
15	**Whiting**	10,000 lb/ trip					
16	**Minor Shelf Rockfish[2/], Shortbelly, & Widow rockfish**	200 lb/ month					
17	**Yellowtail rockfish**	1,000 lb/ month					
18	**Canary rockfish**	300 lb/ 2 months					
19	**Yelloweye rockfish**	CLOSED					
20	**Minor Nearshore Rockfish, Washington Black rockfish & Oregon Black/blue/deacon rockfish**						
21	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[4/]					
22	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish	7,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish				
23	**Lingcod[5/]**						
24	North of 42°00' N. lat.	2,000 lb/ 2 months					
25	42°00' N. lat. - 40°10' N. lat.	1,400 lb/2 months					
26	**Pacific cod**	1,000 lb/ 2 months					
27	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
28	**Longnose skate**	Unlimited					
29	**Other Fish[6/]& Cabezon in California**	Unlimited					
30	**Oregon Cabezon/Kelp Greenling**	Unlimited					
31	**Big skate**	Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish and splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 2 (South) to Part 660, Subpart E—Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10′ N Lat.

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

01012019

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N. lat. - 34°27' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.	75 fm line[1/] - 150 fm line[1/] (also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
3	**Minor Slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months, of which no more than 1,375 lb may be blackgill rockfish			40,000 lb/ 2 months, of which no more than 1,600 lb may be blackgill rockfish		
4	**Splitnose rockfish**	40,000 lb/ 2 months					
5	**Sablefish**						
6	40°10' N. lat. - 36°00' N. lat.	1,300 lb/week, not to exceed 3,900 lb/ 2 months					
7	South of 36°00' N. lat.	2,000 lb/ week					
8	**Longspine thornyhead**	10,000 lb/ 2 months					
9	**Shortspine thornyhead**						
10	40°10' N. lat. - 34°27' N. lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12 13 14 15 16 17	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
18	**Whiting**	10,000 lb/ trip					
19	**Minor Shelf Rockfish[2/], Shortbelly rockfish, Widow rockfish (including Chilipepper between 40°10' - 34°27' N. lat.)**						
20	40°10' N. lat. - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb may be any species other than chilipepper.					
21	South of 34°27' N. lat.	4,000 lb/ 2 months	CLOSED	4,000 lb/ 2 months			
22	**Chilipepper**						
23	40°10' N. lat. - 34°27' N. lat.	Chilipepper included under minor shelf rockfish, shortbelly and widow rockfish limits - - See above					
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the non-trawl RCA					
25	**Canary rockfish**						
26	40°10' N. lat. - 34°27' N. lat.	300 lb/ 2 months					
27	South of 34°27' N. lat.	300 lb/ 2 months	CLOSED	300 lb/ 2 months			
28	**Yelloweye rockfish**	CLOSED					
29	**Cowcod**	CLOSED					
30	**Bronzespotted rockfish**	CLOSED					
31	**Bocaccio**						
32	40°10' N. lat. - 34°27' N. lat.	1,000 lb/ 2 months					
33	South of 34°27' N. lat.	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
34	**Minor Nearshore Rockfish, California Black rockfish, & Oregon Black/Blue/Deacon rockfish**						
35	Shallow nearshore[4/]	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
36	Deeper nearshore[5/]	1,000 lb/ 2 months	CLOSED	1,000 lb/ 2 months			
37	**California Scorpionfish**	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
38	**Lingcod[6/]**	200 lb/ 2 months	CLOSED	800 lb/ 2 months	1,200 lb/ 2 months	600 lb/ month	300 lb/ month
39	**Pacific cod**	1,000 lb/ 2 months					
40	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
41	**Longnose skate**	Unlimited					
42	**Other Fish[7/] & Cabezon in California**	Unlimited					
43	**Big Skate**	Unlimited					

TABLE 2 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*).

6/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 21. In § 660.330, revise paragraph (c)(2)(ii) and (d)(11)(ii) and add paragraph (f) to read as follows:

§ 660.330 Open access fishery—management measures.

* * * * *

(c) * * *

(2) * * *

(ii) *North of 40°10′ N. lat.*—POP, yellowtail rockfish, cabezon (California), Washington cabezon/kelp greenling complex, Oregon cabezon/kelp greenling complex; and

* * * * *

(d) * * *

(11) * * *

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 40 fm (73 m) depth contour within the CCAs when trip limits authorize such fishing and provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE.

* * * * *

(f) *Salmon bycatch.* This fishery may be closed through automatic action at § 660.60(d)(1)(v) and (vi).

■ 22. In § 660.333, revise paragraph (c)(3) to read as follows:

§ 660.333 Open access non-groundfish trawl fishery—management measures.

* * * * *

(c) * * *

(3) The landing includes California halibut of a size required by California Fish and Game Code section 8392, which states: ''No California halibut may be taken, possessed or sold which measures less than 22 in (56 cm) in total length. Total length means the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail.''

* * * * *

■ 23. Revise Tables 3 (North) and 3 (South) in part 660, subpart F, to read as follows:

Table 3 (North) to Part 660, Subpart F—Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10′ N Lat.

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table — 01012019

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
	See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Bank, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	500 pounds/month					
5	**Pacific ocean perch**	100 lb/ month					
6	**Sablefish**	300 lb/ day; or one landing per week up to 1,200 lb, not to exceed 2,400 lb/ 2 months					
7	**Shortpine thornyheads**	50 lb/ month					
8	**Longspine thornyheads**	50 lb/ month					
9	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
10							
11		South of 42° N. lat., when fishing for "Other Flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
12							
13							
14							
15	**Whiting**	300 lb/ month					
16	**Minor Shelf Rockfish[2/], Shortbelly rockfish, & Widow rockfish**	200 lb/ month					
17	**Yellowtail rockfish**	500 lb/ month					
18	**Canary rockfish**	300 lb/ 2 months					
19	**Yelloweye rockfish**	CLOSED					
20	**Minor Nearshore Rockfish, Washington Black rockfish, & Oregon Black/Blue/Deacon rockfish**						
21	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish					
22	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish	7,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish				
23	**Lingcod[5/]**						
24	North of 42°00' N. lat.	900 lb/ month					
25	42°00' N. lat. - 40°10' N. lat.	600 lb/ month					
26	**Pacific cod**	1,000 lb/ 2 months					
27	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
28	**Longnose skate**	Unlimited					
29	**Big skate**	Unlimited					
30	**Other Fish[6/] & Cabezon in California**	Unlimited					
31	**Oregon Cabezon/Kelp Greenling**	Unlimited					

TABLE 3 (North)

Table 3 (North). Continued

TABLE 3 (North) cont'd

32	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*	
33	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. Salmon trollers may retain and land up to 1 lingcod per 5 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. This limit only applies during times when lingcod retention is allowed, and is not "CLOSED." This limit is within the per month limit for lingcod described in the table above, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.
34	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*	
35	North	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

01012019

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N. lat. - 34°27' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.	75 fm line[1/] - 150 fm line[1/](also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	10,000 lb/ 2 months, of which no more than 475 lb may be blackgill rockfish			10,000 lb/ 2 months, of which no more than 550 lb may be blackgill rockfish		
4	**Splitnose rockfish**	200 lb/ month					
5	**Sablefish**						
6	40°10' N. lat. - 36°00' N. lat.	300 lb/ day or one landing per week up to 1,200 lb, not to exceed 2,400 lb/ 2 months					
7	South of 36°00' N. lat.	300 lb/ day, or one landing per week of up to 1,600 lb, not to exceed 3,200 lb/ 2 months					
8	**Shortpine thornyheads and longspine thornyheads**						
9	40°10' N. lat. - 34°27' N. lat.	CLOSED					
10	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
12							
13		South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
14							
15							
16							
17	**Whiting**	300 lb/ month					
18	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish and Chilipepper**						
19	40°10' N. lat. - 34°27' N. lat.	400 lb/ 2 months	CLOSED	400 lb/ 2 months			
20	South of 34°27' N. lat.	1,500 lb/ 2 months		1,500 lb/ 2 months			
21	**Canary rockfish**	300 lb/ 2 months	CLOSED	300 lb/ 2 months			
22	**Yelloweye rockfish**	CLOSED					
23	**Cowcod**	CLOSED					
24	**Bronzespotted rockfish**	CLOSED					
25	**Bocaccio**	500 lb/ 2 months	CLOSED	500 lb/ 2 months			
26	**Minor Nearshore Rockfish, California Black rockfish, & Oregon Black/Blue/Deacon rockfish**						
27	Shallow nearshore[4/]	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
28	Deeper nearshore[5/]	1,000 lb/ 2 months	CLOSED	1,000 lb/ 2 months			
29	**California scorpionfish**	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
30	**Lingcod[6/]**	300 lb/ month	CLOSED	300 lb/ month			
31	**Pacific cod**	1,000 lb/ 2 months					
32	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
33	**Longnose skate**	Unlimited					
34	**Big skate**	Unlimited					
35	**Other Fish[7/] & Cabezon in California**	Unlimited					

TABLE 3 (South)

Table 3 (South). Continued

TABLE 3 (South) cont'd

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
36	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**							
37	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**							
38		*40°10' N. lat. - 38°00' N. lat.*	*100 fm line 1/ - 200 fm line 1/*	*100 fm line 1/ - 150 fm line 1/*				*100 fm line 1/ - 200 fm line 1/*
39		*38°00' N. lat. - 34°27' N. lat.*	*100 fm line 1/ - 150 fm line 1/*					
40		*South of 34°27' N. lat.*	*100 fm line 1/ - 150 fm line 1/ along the mainland coast; shoreline - 150 fm line 1/ around islands*					
41			Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 29).					
42	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*							
43		South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary rockfish, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*).

6/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other fish" are defined at § 660.11 and includes kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 24. Amend § 660.360 as follows:
■ a. Revise paragraphs (c)(1) introductory text, (c)(1)(i)(D)(*1*) through (*3*), (c)(1)(ii) through (iv), (c)(2)(i)(B), (c)(3)(i)(A) through (C), (c)(3)(ii)(A) and (D), (c)(3)(iii)(A), (B), and (D), (c)(3)(iv), and (c)(3)(v)(A) and (B); and
■ b. Add paragraph (d).

The revisions and addition read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *

(1) *Washington.* For each person engaged in recreational fishing off the coast of Washington, the groundfish bag limit is 9 groundfish per day, including rockfish, cabezon and lingcod. Within the groundfish bag limit, there are sub-limits for rockfish, lingcod, and cabezon outlined in paragraph (c)(1)(i)(D) of this section. In addition to the groundfish bag limit of 9, there will be a flatfish limit of 3 fish, not to be counted towards the groundfish bag limit but in addition to it. The recreational groundfish fishery will open the second Saturday in March through the third Saturday in October for all species. In the Pacific halibut fisheries, retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the **Federal Register**. The following seasons, closed areas, sub-limits and size limits apply:

(i) * * *

(D) * * *

(*1*) West of the Bonilla-Tatoosh line between the U.S. border with Canada and the Queets River (Washington state Marine Area 3 and 4), recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 20 fm (37 m) depth contour from June 1 through Labor Day, except on days when the Pacific halibut fishery is open in this area it is lawful to retain lingcod, Pacific cod, and sablefish seaward of the 20 fm (37 m) boundary. Yellowtail and widow rockfish can be retained seaward of 20 fm (37 m) in the months of July and August on days open to the recreational salmon fishery. Days open to Pacific halibut recreational fishing off Washington and days open to recreational fishing for salmon are announced on the NMFS hotline at (206) 526–6667 or (800) 662–9825. Coordinates for the boundary line approximating the 20 fm (37 m) depth contour are listed in § 660.71.

(*2*) Between the Queets River (47°31.70′ N lat.) and Leadbetter Point (46°38.17′ N lat.) (Washington state Marine Area 2), recreational fishing for lingcod is prohibited seaward of a boundary line approximating the 30 fm (55 m) depth contour from the second Saturday in March through May 31 except that recreational fishing for lingcod is permitted within the RCA on

days that the primary halibut fishery is open. In addition to the RCA described in the preceding sentence, between the Queets River (47°31.70′ N lat.) and Leadbetter Point (46°38.17′ N lat.) (Washington state Marine Area 2), recreational fishing for lingcod is prohibited year round seaward of a straight line connecting all of the following points in the order stated: 47°31.70′ N lat., 124°45.00′ W long.; 46°38.17′ N lat., 124°30.00′ W long. with the following exceptions: on days that the primary halibut fishery is open lingcod may be taken, retained and possessed within the lingcod area closure; lingcod may also be taken, retained, and possessed from June 1 through June 15 and from September 1 through September 15 within the lingcod area closure. If the Pacific halibut recreational fishery in Washington state Marine Area 2 is not open for at least four days, lingcod may be taken, retained, and possessed seaward of the boundary line approximating the 30 fm (55 m) depth contour and the straight line connecting all of the following points in the order stated: 47°31.70′ N lat., 124°45.00′ W long.; 46°38.17′ N lat., 124°30.00′ W long. on Sundays in May. Days open to Pacific halibut recreational fishing off Washington are announced on the NMFS hotline at (206) 526–6667 or (800) 662–9825. For additional regulations regarding the Washington recreational lingcod fishery, see paragraph (c)(1)(iv) of this section. Coordinates for the boundary line approximating the 30 fm (55 m) depth contour are listed in § 660.71.

(*3*) Between Leadbetter Point (46°38.17′ N lat.) and the Columbia River (46°16.00′ N lat.) (Marine Area 1), when Pacific halibut are onboard the vessel, no groundfish may be taken and retained, possessed or landed, except sablefish, flatfish species (except halibut), Pacific cod, and lingcod from May 1 through September 30. Except that taking, retaining, possessing or landing incidental halibut with groundfish on board is allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries in the area shoreward of the boundary line approximating the 30 fathom (fm) (55 m) depth contour extending from Leadbetter Point, WA (46°38.17′ N lat., 124°15.88′ W long.) to the Columbia River (46°16.00′ N lat., 124°15.88′ W long.) and from there, connecting to the boundary line approximating the 40 fm (73 m) depth contour in Oregon. Nearshore season days are established in the annual management measures for Pacific halibut fisheries, which are published in the **Federal Register** and are announced on the NMFS halibut hotline, 1–800–662–9825. Between Leadbetter Point (46°38.17′ N lat. 124°21.00′ W long) and 46°33.00′ N lat. 124°21.00′ W long., recreational fishing for lingcod is prohibited year round seaward of a straight line connecting all of the following points in the order stated: 46°38.17′ N lat., 124°21.00′ W long.; and 46°33.00′ N lat., 124°21.00′ W long.

(ii) *Rockfish.* In areas of the EEZ seaward of Washington (Washington Marine Areas 1–4) that are open to recreational groundfish fishing, there is a 7 rockfish per day bag limit. Taking and retaining yelloweye rockfish is prohibited in all Marine areas.

(iii) *Cabezon.* In areas of the EEZ seaward of Washington (Washington Marine Areas 1–4) that are open to recreational groundfish fishing, there is a 1 cabezon per day bag limit.

(iv) *Lingcod.* In areas of the EEZ seaward of Washington (Washington Marine Areas 1–4) that are open to recreational groundfish fishing and when the recreational season for lingcod is open, there is a bag limit of 2 lingcod per day. The recreational fishing seasons for lingcod is open from the second Saturday in March through the third Saturday in October.

(2) * * *

(i) * * *

(B) *Recreational rockfish conservation area (RCA).* Fishing for groundfish with recreational gear is prohibited within the recreational RCA, a type of closed area or groundfish conservation area, except with long-leader gear (as defined at § 660.351). It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA, except with long-leader gear (as defined at § 660.351). A vessel fishing in the recreational RCA may not be in possession of any groundfish. [For example, if a vessel fishes in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while within the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.] Off Oregon, from June 1 through August 31, recreational fishing for groundfish is prohibited seaward of a recreational RCA boundary line approximating the 40 fm (73 m) depth contour, except that fishing for flatfish (other than Pacific halibut) is allowed seaward of the 40 fm (73 m) depth contour when recreational fishing for groundfish is permitted. Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are listed at § 660.71.

* * * * *

(3) * * *

(i) * * *

(A) *Recreational rockfish conservation areas.* The recreational RCAs are areas that are closed to recreational fishing for groundfish. Fishing for groundfish with recreational gear is prohibited within the recreational RCA, except that recreational fishing for ''Other Flatfish,'' petrale sole, and starry flounder is permitted within the recreational RCA as specified in paragraph (c)(3)(iv) of this section. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA, unless otherwise authorized in this section. A vessel fishing in the recreational RCA may not be in possession of any species prohibited by the restrictions that apply within the recreational RCA. [For example, if a vessel fishes in the recreational salmon fishery within the RCA, the vessel cannot be in possession of rockfish while in the RCA. The vessel may, however, on the same trip fish for and retain rockfish shoreward of the RCA on the return trip to port.] If the season is closed for a species or species group, fishing for that species or species group is prohibited both within the recreational RCA and shoreward of the recreational RCA, unless otherwise authorized in this section.

(*1*) Between 42° N lat. (California/Oregon border) and 40°10′ N lat. (Northern Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and ''Other Flatfish'' as specified in paragraph (c)(3)(iv) of this section) is closed from January 1 through April 30; is prohibited seaward of the 30 fm (55 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through October 31 (shoreward of 30 fm is open); and is open at all depths from November 1 through December 31. Coordinates for the boundary line approximating the 30 fm (55 m) depth contour are listed in § 660.71.

(*2*) Between 40°10′ N lat. and 38°57.50′ N lat. (Mendocino Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and ''Other Flatfish'' as specified in paragraph (c)(3)(iv) of this section) is closed from January 1 through April 30; prohibited seaward of the 20 fm (37 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through October 31 (shoreward of 20 fm is open), and is open at all depths from November 1 through December 31.

(*3*) Between 38°57.50′ N lat. and 37°11′ N lat. (San Francisco Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and ''Other Flatfish'' as specified in paragraph (c)(3)(iv) of this section) is closed from January 1 through March 31; is prohibited seaward of the boundary line approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from April 1 through December 31. Closures around Cordell Bank (see paragraph (c)(3)(i)(C) of this section) also apply in this area. Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are listed in § 660.71.

(*4*) Between 37°11′ N lat. and 34°27′ N lat. (Central Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and ''Other Flatfish'' as specified in paragraph (c)(3)(iv) of this section) is closed from January 1 through March 31; and is prohibited seaward of a boundary line approximating the 50 fm (91 m) depth contour along the mainland coast and along islands and offshore seamounts from April 1 through December 31. Coordinates for the boundary line approximating the 50 fm (91 m) depth contour are specified in § 660.72.

(*5*) South of 34°27′ N lat. (Southern Management Area), recreational fishing for all groundfish (except California scorpionfish, ''Other Flatfish,'' petrale sole, and starry flounder) is closed entirely from January 1 through the last day of February. Recreational fishing for all groundfish (except ''Other Flatfish,'' petrale sole, and starry flounder, as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 75 fm (137 m) depth contour from March 1 through December 31 along the mainland coast and along islands and offshore seamounts, except in the CCAs where fishing is prohibited seaward of the 40 fm (73 m) depth contour when the fishing season is open (see paragraph (c)(3)(i)(B) of this section). Coordinates for the boundary lines approximating the depth contours are specified at §§ 660.71 through 660.74.

(B) *Cowcod conservation areas.* The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at § 660.70. In general, recreational fishing for all groundfish is prohibited within the CCAs, except that fishing for petrale sole, starry flounder, and ''Other Flatfish'' is permitted within the CCAs as specified in paragraph (c)(3)(iv) of this section. However, recreational fishing for the following species is prohibited seaward of the 40 fm (37 m) depth contour when the season for those species is open south of 34°27′ N lat.: Minor nearshore rockfish, cabezon, kelp greenling, lingcod, California scorpionfish, and shelf rockfish. Retention of yelloweye rockfish, bronzespotted rockfish and cowcod is prohibited within the CCA. [*Note:* California state regulations also permit recreational fishing for California sheephead, ocean whitefish, and all greenlings of the genus Hexagrammos shoreward-of the 40 fm (73 m) depth contour in the CCAs when the season for the RCG complex is open south of 34°27′ N lat.] It is unlawful to take and retain, possess, or land groundfish taken within the CCAs, except for species authorized in this section.

(C) *Cordell Bank.* Recreational fishing for groundfish is prohibited in waters less than 100 fm (183 m) around Cordell Bank as defined by specific latitude and longitude coordinates at § 660.70, subpart C, except that recreational fishing for petrale sole, starry flounder, and ''Other Flatfish'' is permitted around Cordell Bank as specified in paragraph (c)(3)(iv) of this section.

* * * * *

(ii) * * *

(A) *Seasons.* When recreational fishing for the RCG complex is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(*1*) Between 42° N lat. (California/Oregon border) and 40°10′ N lat. (North Management Area), recreational fishing for the RCG complex is open from May 1 through December 31 (*i.e.,* it's closed from January 1 through April 30).

(*2*) Between 40°10′ N lat. and 38°57.50′ N lat. (Mendocino Management Area), recreational fishing for the RCG Complex is open from May 1 through December 31 (*i.e.,* it's closed from January 1 through April 30).

(*3*) Between 38°57.50′ N lat. and 37°11′ N lat. (San Francisco Management Area), recreational fishing for the RCG complex is open from April 1 through December 31 (*i.e.,* it's closed from January 1 through March 31).

(*4*) Between 37°11′ N lat. and 34°27′ N lat. (Central Management Area), recreational fishing for the RCG complex is open from April 1 through December 31 (*i.e.,* it's closed from January 1 through March 31).

(*5*) South of 34°27′ N lat. (Southern Management Area), recreational fishing for the RCG Complex is open from March 1 through December 31 (*i.e.,* it's closed from January 1 through the last day in February).

* * * * *

(D) *Dressing/filleting.* Cabezon, kelp greenling, and rock greenling taken in the recreational fishery may not be filleted at sea. Rockfish skin may not be removed when filleting or otherwise dressing rockfish taken in the recreational fishery.

(iii) * * *

(A) *Seasons.* When recreational fishing for lingcod is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(*1*) Between 42° N lat. (California/Oregon border) and 40°10′ N lat. (Northern Management Area), recreational fishing for lingcod is open from May 1 through December 31 (*i.e.,* it's closed from January 1 through April 30).

(*2*) Between 40°10′ N lat. and 38°57.50′ N lat. (Mendocino Management Area), recreational fishing for lingcod is open from May 1 through December 31 (*i.e.,* it's closed from January 1 through April 30).

(*3*) Between 38°57.50′ N lat. and 37°11′ N lat. (San Francisco Management Area), recreational fishing for lingcod is open from April 1 through December 31 (*i.e.,* it's closed from January 1 through March 31).

(*4*) Between 37°11′ N lat. and 34°27′ N lat. (Central Management Area), recreational fishing for lingcod is open from April 1 through December 31 (*i.e.,* it's closed from January 1 through March 31).

(*5*) South of 34°27′ N lat. (Southern Management Area), recreational fishing for lingcod is open from March 1 through December 31 (*i.e.,* it's closed from January 1 through the last day in February).

(B) *Bag limits, hook limits.* In times and areas when the recreational season for lingcod is open, there is a limit of 2 hooks and 1 line when fishing for lingcod. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(*1*) The bag limit between 42° N lat. (California/Oregon border) and 40°10′ N lat. (Northern Management Area) is 2 lingcod per day.

(*2*) The bag limit between 40°10′ N lat. and the U.S. border with Mexico (Mendocino Management Area, San Francisco Management Area, Central Management Area, and Southern Management Area) is 1 lingcod per day.

* * * * *

(D) *Dressing/filleting.* Lingcod filets may be no smaller than 14 in (36 cm) in length. Each fillet shall bear an intact 1 in (2.6 cm) square patch of skin.

(iv) ''*Other Flatfish,'' petrale sole, and starry flounder.* Coastwide off California, recreational fishing for ''Other Flatfish,'' petrale sole, and starry flounder, is permitted both shoreward of and within the closed areas described in paragraph (c)(3)(i) of this section. ''Other Flatfish'' are defined at § 660.11, and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole. ''Other Flatfish,'' are subject to the overall 20-fish bag limit for all species of finfish, of which there may be no more than 10 fish of any one species; there is no daily bag limit for petrale sole, starry flounder and Pacific sanddab. There are no size limits for ''Other Flatfish,'' petrale sole, and starry flounder. ''Other Flatfish'', petrale sole, and starry flounder may be filleted at sea. Fillets may be of any size, but must bear intact a one-inch (2.6 cm) square patch of skin.

(v) * * *

(A) *Seasons.* When recreational fishing for California scorpionfish is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(*1*) Between 40°10′ N lat. and 38°57.50′ N lat. (Mendocino Management Area), recreational fishing for California scorpionfish is open from May 1 through December 31 (*i.e.,* it's closed from January 1 through April 30).

(*2*) Between 38°57.50′ N lat. and 37°11′ N lat. (San Francisco Management Area), recreational fishing for California scorpionfish is open from April 1 through December 31 (*i.e.,* it's closed from January 1 through March 31).

(*3*) Between 37°11′ N lat. and 34°27′ N lat. (Central Management Area), recreational fishing for California scorpionfish is open from April 1 through December 31 (*i.e.,* it's closed from January 1 through March 31).

(*4*) South of 34°27′ N lat. (Southern Management Area), recreational fishing for California scorpionfish is open from January 1 through December 31.

(B) *Bag limits, hook limits.* South of 40°10.00′ N lat., in times and areas where the recreational season for California scorpionfish is open there is a limit of 2 hooks and 1 line, the bag limit is 5 California scorpionfish per day. California scorpionfish do not count against the 10 RCG Complex fish per day limit. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

* * * * *

(d) *Salmon bycatch.* Recreational fisheries that are not accounted for within pre-season salmon modeling may be closed through automatic action at § 660.60(d)(1)(v) and (vi).

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FEDERAL REGISTER

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Part III

The President

Proclamation 9832—Human Rights Day, Bill of Rights Day, and Human Rights Week, 2018

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9832 of December 7, 2018

Human Rights Day, Bill of Rights Day, and Human Rights Week, 2018

By the President of the United States of America

A Proclamation

Our Nation was founded on the idea that our Creator endows each individual with certain unalienable rights. In the Declaration of Independence, Thomas Jefferson identified life, liberty, and the pursuit of happiness as among these fundamental human rights. Our Nation has enshrined these and other rights, which Americans continue to enjoy today, in the Bill of Rights.

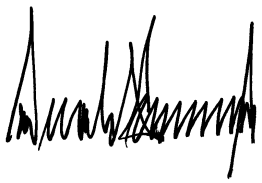
On Bill of Rights Day, we recognize the key role of the Bill of Rights in protecting our individual liberties and limiting the power of government. The Founding Fathers understood the real threat government can pose to the rights of the people. James Madison, who introduced the Bill of Rights in the Congress, stated that the ''essence of Government is power; and power, lodged as it must be, in human hands, will ever be liable to abuse.'' That is why those first 10 Amendments to the Constitution, among others, protected the right to speak freely, the right to freely worship, the right to keep and bear arms, the right to be free from unreasonable searches and seizures, and the right to due process of law. As a part of the Constitution, the supreme law of the land, the Bill of Rights has protected our rights effectively against the abuse of government power for 227 years.

The Bill of Rights has served as a model for other countries in helping them develop their own safeguards for fundamental human rights. Seventy years ago, on December 10, 1948, as the world was emerging from the catastrophic destruction of World War II, the Bill of Rights inspired the United Nations General Assembly to adopt the Universal Declaration of Human Rights. Similar to the Bill of Rights, the Universal Declaration of Human Rights enumerates many basic rights that are essential to preserving the dignity and liberty of all people. Today, the United States continues to respect the sovereign right of each country to chart its own social, economic, and cultural advancement. We also, however, recognize the universal truth that those countries that strive to honor and defend human rights are more likely to achieve long-term, sustainable prosperity and peace.

During Human Rights Day, Bill of Rights Day, and Human Rights Week, we vow to fiercely protect the eternal flame of liberty. Since there will always be a temptation for government to abuse its power, we reaffirm our commitment to defend the Bill of Rights and uphold the Constitution. We also remember all those around the world whose God-given rights have been violated and disregarded by authoritarian regimes, and we express our desire for the rule of law and liberty to one day triumph over all forms of oppression.

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 December 10, 2018, as Human Rights Day; December 15, 2018, as Bill of Rights Day; and the week beginning December 9, 2018, as Human Rights Week. I call upon the people of the United States to mark these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of December, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-third.



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